



Appeal Decision

Site visit made on 27 November 2025

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2025

Appeal Ref: APP/Q5300/W/25/3373101

38 Turkey Street, Enfield EN3 5TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a conditional grant of planning permission.
 - The appeal is made by Mr Marcello Monsellato against the decision of the Council of the London Borough of Enfield.
 - The application Ref 25/01453/FUL was approved on 26 August 2025 and planning permission was granted subject to conditions.
 - The development permitted is Conversion of use from C3 (dwelling house) to 6 -bedroom 6- person HMO – House in multiple occupation (C4) with single-storey ground floor extension, first- floor side extension and roof extension (amended description).
 - The condition in dispute is No 8 which states that: The use of the property as a House in Multiple Occupation hereby approved shall be occupied by a maximum of six people at any one time and shall not be subdivided or occupied as self-contained units.
 - The reason given for the condition is: To accord with the stipulations of definition as a House of Multiple Occupation and to safeguard the residential character of the surrounding area.
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Decision

1. The appeal is dismissed.

Application for an award of costs

2. The Council have submitted an application for an award of costs against the appellant. This is considered under separate cover.

Background and Procedural Matters

3. The appellant originally sought planning permission as per the description within the application form submitted to the Council to erect a '1st floor side extension: ground floor rear (PP-13796156) and loft extension (PP-13684420) and convert to HMO accommodating up to 10 people (4 x 2 person rooms and 2 x 1 person rooms).'
4. I understand from the evidence before me that the Council requested changes to the proposal throughout the application stage and an amended scheme was eventually approved by the Council. The description as per the decision notice reads: 'Conversion of use from C3 (dwelling house) to 6 -bedroom 6- person HMO – House in multiple occupation (C4) with single-storey ground floor extension, first- floor side extension and roof extension (amended description).'
5. I note that the appeal form submitted by the appellant includes the same description as the application form.
5. The decision notice included a number of planning conditions the Council imposed. The area in dispute between the parties relates to Condition 8 of the approved

scheme. Condition 8 reads as follows: 'The use of the property as a House in Multiple Occupation hereby approved shall be occupied by a maximum of six people at any one time and shall not be subdivided or occupied as self-contained units.'

6. The appellant request this condition be varied to increase the number of occupants within the dwelling from six to nine. This would be facilitated by way of three bedrooms becoming occupied on a dual occupancy basis. Their suggested condition 8 wording is as follows: 'The use of the property as a House in Multiple Occupation hereby approved shall be occupied by a maximum of nine people at any one time and shall not be subdivided or occupied as self-contained units.'
7. The Council have responded to the appeal referencing the Court of Appeal Judgment of *Finney v Welsh Ministers & Ors* (Rev 1) [2019] EWCA CIV 1868 (Finney) and are of the view that to vary the condition as requested would amount to development fundamentally different to that approved under the original application.
8. The Court for Finney held that it was beyond the powers of the decision maker under S73 to alter the description of the development, as this is the operative part of the permission and S73(2) states that the planning authority must consider only the question of conditions. It follows, from Finney, that where amending a condition would result in a conflict between the new condition and the description of the development, that the particular amendment is beyond the powers under S73 and cannot be made. A fresh planning application is instead required. An amendment can only be made provided the new condition does not fundamentally alter the proposal originally granted permission.
9. It should be noted that the 'Finney' principles are not applicable to S79 appeals because this type of appeal includes the powers for myself as the Planning Inspector to consider the matter afresh and deal with the application as if it has been made to them in the first instance. In such cases I also have the powers to amend the description of the development should I consider it necessary.
10. In light of the above, whilst the area in contention relates to numbers of occupants proposed within the HMO, there is nothing before me to disagree with this finding. All the planning conditions imposed to the extant permission are also before me to take into account. I shall consider the proposal against the policies of the Enfield Local Plan Core Strategy and Development Management Document the Council refer to. Therefore, the main issues I consider are:

Main Issues

11. The main issues are:

- The effect of the proposal on the character of the local area;
- The effect of the proposal on the living conditions of internal occupants; and
- Whether or not there would be a highway and pedestrian safety issue.

Reasons

Effect on character of local area

12. The site is located in a dense, urban residential area. The character of an HMO is different to that of a family home as unrelated individuals reside together. Even if there is no control over the number of occupants and visitors and deliveries to a family home, and according to the parties the local area contains a low level of HMO's, an increased level of comings and goings of up to nine occupants, visitors and vehicles to the site would inevitably arise.
13. Therefore, the activities associated with a large HMO would add an additional level of noise and disturbance to this densely built up and residential area arising from a large number of people living together. The houses here are physically close together and the effect of the greater intensification on the character of the local area would be noticeable. Even if there are no objections raised by the Council or received from neighbours regarding overlooking and loss of privacy or overshadowing issues, the effect of the cumulative increased activities of occupants, visitors and vehicles coming and going as a result of up to nine people living together that could occur twenty four hours a day, would have a negative impact on the residential character of the local area.
14. The HMO may be professionally managed and comply with legislation relating to fire safety, health and safety and on-going maintenance upheld, which is important to the welfare of the occupants and to general upkeep of the property. Be that as it may, an off-site management company has its limitations and cannot reasonably control all the activities surrounding the use, particularly behaviours of occupants, their visitors and vehicles to the site, and times when these occur.
15. In terms of the HMO licence for the use, this is separate legislation to the Planning Act and whilst it has its own conditions imposed, as is my duty I must assess this proposal through the lens of planning legislation as planning and licensing must be viewed from two distinctly different perspectives. A clear distinction between the two is that HMO licence runs with the licensee of the HMO, and planning is land-use based. Enforcing the conditions imposed on the premises licence does not fall within the planning regime, and vice versa. They are separate enforcements.
16. Therefore, to conclude on this main issue, the proposal would not accord with the broad objectives of policy CP5 of the Enfield Local Plan Core Strategy (CS) to ensure existing neighbourhoods are respected, and policy DMD5 of the Development Management Document that aims to safeguard residential amenity, and Policy DMD8 that seeks new residential development to be appropriately located.

Highway and pedestrian safety

17. One off-street parking space was conditioned to the front of the site as this was acceptable to Council standards for an HMO of up to six occupants, including six cycle parking spaces and refuse provision within this space.
18. The Council argue that up to nine occupants would require additional vehicular parking on site as well as adequate refuse and cycling provision within the front external space.

19. They have however not provided evidence to demonstrate that further off-street parking spaces are required. Even though I understand that the local area is within a PTAL level of 2 and consequently the site has limited access to public transport options, and I am aware of the on-street parking restrictions, nevertheless, I cannot be certain additional off-street parking is necessary to make the proposal acceptable in planning terms.
20. The extant permission requires six long stay cycle parking spaces. I note the planning condition imposed seeks precise details of the cycle stores to be provided. I have no reason to dispute the necessity of this given the site should be sustainable in transport terms given the low PTAL rating and limitations to on and off-street parking. These details have been backed up by the Council's Transport Planner with six cycle stores required. The fact that there would be a large number of individuals living together in the HMO in this location with a poor PTAL rating, cycle provision to support the proposal for up to nine occupants would be necessary to make the development acceptable in planning terms. Waste facilities would inevitably increase given the proposed number of occupants.
21. Without specific details before me to ensure acceptable cycle provision in accordance with Council policy can be delivered on site together with the off-street parking space and the necessary waste facilities, there is no evidence to demonstrate that these can be accommodated on site without causing conflict to highway and pedestrian safety.
22. On this basis the proposal would not meet the requirements of Core Strategy Policy CP22 that supports appropriate waste provision on site, and the highway and pedestrian safety objectives of Core Strategy Policies CP24, CP25 and CP26.

Living conditions – proposed occupants

23. There is nothing before me from the Council to demonstrate that the bedrooms which are proposed to accommodate dual occupancy are insufficiently sized to result in a poor standard of living accommodation for the occupants, in conflict with local planning policy.
24. In terms of other internal space, there is no supporting evidence from the Council to demonstrate that the combined space of the kitchen/dining/living would be insufficient in size to safeguard the living conditions for up to nine occupants. No details of how this space is tested against planning policy has been provided to me from the Council, and Enfield Council HMO standards are not enshrined in development plan policy. Therefore, as there is an absence of detail surrounding this matter, I am not convinced their living conditions would be adversely compromised.
25. To conclude on this main issue, the proposal would meet expectations of Core Strategy Policy CP5 with regards to acceptable living conditions and policies DMD5 and DMD8 of the Development Management Document only in so far as it relates to internal room sizes

Balance and Conclusion

26. In the balance there is nothing before me to challenge the acceptability of the living conditions of the occupants of the HMO. Nevertheless, an HMO of up to nine occupants would change the character of the local area to its detriment by way of

noise and disturbance. The necessary cycle, vehicular parking and waste facilities required to make the proposal acceptable in planning terms have not been acceptably demonstrated and therefore highway and pedestrian safety would not be safeguarded. Even though the HMO will require independent licensing standards, this is separate legislation, and whilst a management company would be in place, I have concluded that this has its limitations.

27. An extant permission for an HMO of up to six occupants remains intact. An HMO for up to nine occupants in this location would have an adverse impact as identified and therefore I cannot allow the appeal. For the reasons outlined above, the appeal should be dismissed.

Alison Scott

INSPECTOR