



Appeal Decision

Site visit made on 8 January 2026

by **R Satheesan BSc PGCert MSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 January 2026

Appeal Ref: APP/Y5420/C/24/3342163

31 Waldeck Road, Tottenham, London N15 3EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Hamid Kamyab on behalf of KIKS Group Ltd against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 28 February 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the property to sui generis mixed-use comprising of six self-contained flats, two additional separate kitchens and one bedroom.
 - The requirements of the notice are to:
 1. Remove all kitchen units (worktops, cupboards) in their entirety from every flat.
 2. Remove splashbacks in their entirety from every flat.
 3. Remove kitchen sinks and associated taps in their entirety from every flat.
 4. Remove all plumbing and electrical fixtures associated with the kitchens from every flat.
 5. Remove all kitchen appliances which facilitate the unauthorised use from each flat (such as microwave ovens and combination hob/ovens from the rooms, hot plates, air fryers).
 6. Remove from the land all debris resulting from compliance with the above requirements.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed on ground (b), and the enforcement notice is quashed.

The appeal on ground (b)

2. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact. Under this ground of appeal, the appellant's primary submission, referring to the *Welwyn Hatfield BC Judgement*¹, is that there is no mixed use and that the appeal site is in use as a 6-bedroom House in Multiple Occupation (HMO) only. However, the Council state that the property consists of a sui generis mixed-use comprising of six self-contained flats, two additional separate kitchens and one bedroom. This ground turns on the question of whether any of the units of accommodation were being used as a flat.
3. 31 Waldeck Road constitutes the two-storey end of terrace property which has previously been extended by a ground floor rear infill extension and an L-shaped rear dormer at roof level. The site is covered by an Article 4 Direction that prevents the use of dwellinghouses as HMOs without planning permission.

¹ Welwyn Hatfield BC v SSHCLG & Ismail Kabala (IP) [2022] EWHC 3175 (Admin)

4. Whilst there is no definition of a dwellinghouse within the Act, case law has established that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence². This is a question of fact and both actual use and the physical characteristics needs to be considered. I understand the term 'flat' for town-planning purposes to denote a part of a building that has the characteristics of a dwelling in its own right, that is to say the ability to afford to those who use it the facilities required for day-to-day private domestic existence. It would satisfy the above test, established in case law, if it would generally be considered by reasonable people to comprise such a dwelling.
5. The Housing Act 2004 at section 254 deal with HMOs and creates a number of tests, including that those who occupy the building must share one or more basic amenities (or their accommodation must lack one or more basic amenities). Basic amenities are defined as a "toilet, personal washing facilities and cooking facilities."
6. The Council argue that the each of the individual 6 rooms are self-contained flats because they each have 3 basic amenities available to it, including cooking facilities in each room. In support of their view, they have referred to the Housing Design Standards, 2023 (London Plan Guidance), which provides a schedule of furniture for kitchens.
7. During my site inspection I observed that whilst the rooms varied in size and shape, they were generally modest with each room containing its own kitchen and an ensuite with a shower and toilet. The kitchen facilities within each room comprised a washing machine, sink, fridge and kitchen cupboards and base units with work top surfaces. However, contrary to the Housing Design Guide none of the rooms contained any form of conventional cookers/ovens nor power supply or connections to install them. Furthermore, whilst there were some surfaces available within the small kitchen units for preparing/chopping food, there was limited circulation space or clear surfaces for eating a meal. In this respect, I find that the kitchen facilities for all 6 rooms deficient in terms of providing self-containment.
8. In addition, the layout of the property includes two shared kitchens for occupiers of the building to use (one on the ground floor and one on the second floor) in addition to a communal living area at second floor level. The communal areas at ground and second floor level also provides additional seating and dining area for occupiers to relax and eat their meals away from their rooms in the form of tables and chairs in the ground floor kitchen and a breakfast bar and sitting area in the shared living area at second floor level.
9. The ground floor shared kitchen provided a cooker with oven and an extraction hood above. There was also a washing machine, sink, two fridges and an air fryer, kitchen cupboard and worktop surfaces. The second-floor shared kitchen included a cooker with over and extraction hood above, a microwave, kettle, sink, fridge and kitchen cupboard and worktop surfaces.
10. I also saw evidence that these kitchens were being used, in so far as two of the individual bedrooms³ contained pots/saucepans. Since there were no

² *Gravesham BC v Secretary of State for Environment* (1984) 47 P & CR 142 1.

³ Ground floor front room and the first-floor middle room.

cookers/ovens within any of the bedrooms, it is highly likely that these were used for cooking in the communal shared kitchens on the ground and/or second floor.

11. There was also clear evidence of the second-floor communal kitchen being used with food stored in the kitchen cupboard and the fridge, cooked food in a saucepan on the cooker and washing up draining on the sink. Moreover, there appears nothing to stop these kitchen and dining facilities from being used by anyone in the building, should a tenant wish. I also have no reason to believe the layout of the property has significantly changed since the enforcement notice was issued. Indeed, the layouts I observed appear the same as the Council's site visit photographs dated 1st June 2023.
12. I also note that planning permission was previously approved in November 2020 for the change of use of property from single dwellinghouse (Class C3) to a 6-bedroom HMO for up to 9 individuals (Sui Generis) and the erection of a rear dormer extension (Council ref: HGY/2020/2526). The layout of the property is in general conformity with the approved layout, save that the current layout now includes a further shared kitchen and shared living area within the recently converted loft space.
13. Furthermore, a Valuation Report for No 31 Waldeck Road dated 17 October 2023⁴, also describes the property as a *"six-bedroom House in Multiple Occupation, as well as two communal kitchens; one each at ground and second floor level.... All units present in recently refurbished condition with five being let and one vacant."* The Description of the property and the photographs included within that report match the current layout of the property. As such, both the previous planning permission for an HMO and the Valuation Report lends further support that the premises is indeed HMO rather than self-contained flats.
14. In addition, copies of 6 Assured Shorthold Tenancies (AST) for each room in the property has been submitted. The ASTs clearly describe each room as 'Rooms 1-6'. The ASTs also highlight that there are shared parts of 31 Waldeck Road which relates to gardens, kitchens, reception rooms and hallways. This adds further weight to the appellant's case, that the property is an HMO rather than self-contained flats. In particular, the ASTs explicitly describes these as 'rooms' rather than 'flats'. Further support is provided by the fact that there is only one Council tax bill for the entire building.
15. In support of their contention of self-contained flats, the Council argue that despite the lack of conventional cookers in each of the rooms, there is the space for portable cooking appliances (such as microwaves or air fryers) and therefore these rooms are capable of providing cooking facilities, thus facilitating self-containment. However, this is clearly not the case. That is not to say that it is impossible to use them in a day-to-day sense. However, Gravesham is concerned with what would generally be considered by reasonable people to comprise the test for a dwelling, not the bare minimum that it is actually possible to survive on. Otherwise, the confusion that has occurred, where, if the air fryer or microwave is removed from the room, it turns from a flat to a room in an HMO, and back the next day. That cannot be correct.
16. During my site inspection I observed that all of the 6 individual rooms were small (well below the minimum floor size standards for self-contained flats) with limited

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circulation space and lack of conventional ovens/cookers, and only two bedrooms contained portable plug in cooking devices. There are also two communal kitchens with a conventional cookers and ovens within the appeal building, the one on the second floor showing clear signs of use during my site inspection. Thus, whilst the rooms may or may not contain portable cooking devices, in my opinion, none could, by any stretch of the imagination, be said to provide “the facilities required for day-to-day private domestic existence”.

17. Indeed, in response to the appeal notification letters, the tenant of room 5 of the appeal site has provided a written response stating that his room *“is not self-contained. My kitchenette is not fitted with any cooking appliances. I use the ground floor communal kitchen to cook and eat my meals in.”* As such, both my own observations and the written evidence submitted by one of the tenants of the appeal site demonstrates that the communal kitchen is available for use by anyone in the building and has been used for cooking and dining purposes. Thus, in accordance with section 254 of the Housing Act 2004, the tenants of the building have the opportunity to share one or more basic amenities, that being cooking facilities.
18. The Council consider that rents for each of the rooms are comparable to the rent of a one-bedroom flat in Haringey. However, the appellant has demonstrated that the rents for the rooms are lower than the average for a one-bedroom flat in Haringey. In any case, given it is just an average figure, there is limited evidence before me demonstrating what the standard and quality of those other one-bedroom flats are. I therefore give very limited weight to rent figures quoted.
19. Having carefully considered all of the evidence before me, I conclude, on the balance of probabilities, as a matter of fact and degree, the premises comprise a 6-bedroom HMO. For the above reasons, I have concluded that the use of the premises has not changed to a sui generis mixed-use comprising of six self-contained flats, two additional separate kitchens and one bedroom, as alleged in the notice. The breach of planning control has not occurred, and the appeal succeeds on ground (b).
20. Under section 176(1)(a) of the 1990 Act, I have the power to correct, vary or amend the notice provided I am satisfied that there is no injustice caused to either party. However, in this case a correction to the allegation to ‘an HMO’ may change how the parties would have presented their cases and give rise to other grounds of appeal. In this regard, correcting the notice would prejudice the parties, who have made their case on the alleged mixed-use comprising of 6 self-contained flats, two additional separate kitchens and one bedroom. There is a material difference between an HMO and the allegation stated in the Notice. Had the Council identified the correct HMO use, its reasons for taking enforcement action (if it had done so) would have also been different, and the grounds of appeal may in part for that reason be different too.
21. In these circumstances and having regard to my conclusions on appeal (b), I shall not seek to correct the notice, as there would be prejudice to the parties. Rather, I shall quash it.
22. As a result of the success of the appeal on ground (b), the enforcement notice has been quashed. I have taken into account all the other matters raised, including the representations from a third parties, but these do not alter my conclusion.

Conclusion

23. For the reasons given above, I conclude that the appeal should succeed on ground (b). The enforcement notice will be quashed. In these circumstances, the appeal on grounds (a), (f), and (g) do not fall to be considered.

R. Satheesan

INSPECTOR