



Appeal Decision

Site visit made on 26 November 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th January 2026

Appeal Ref: APP/T5150/C/24/3336906 195 Princes Avenue, London NW9 9QS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Kurji Devraj Harji Patel against an enforcement notice ("EN") issued by the Council of the London Borough of Brent.
 - The EN was issued on 8 December 2023.
 - The breach of planning control as alleged in the EN is: Without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO), flats and landlord's storage.
 - The requirements of the EN are to:
 - STEP 1 Cease the use of the premises as a House in Multiple Occupation (HMO).
 - STEP 2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including the bathrooms, kitchens and partitions from the ground floor middle bedroom, first floor rear bedrooms, and second floor rear bedroom.
 - STEP 3 Restore the internal configuration to the original layout before the unauthorised change of use took place. For the avoidance of doubt, this should include a kitchen, dining room, lounge and bathroom on the ground floor, bedrooms and a bathroom on the upper floors.
 - The period for compliance with the requirements is: 6 months after this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act. 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 1990 Act.
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Decision

1. It is directed that the EN is corrected and varied by:
 - *the deletion of the words "Step 1 Cease the use of the premises as a House in Multiple Occupation (HMO)" and their substitution with the words "Step 1 Cease the use of the ground floor of the premises as a House in Multiple Occupation (HMO)" in the EN's requirements;*
 - *the deletion of the entirety of both Step 2 and Step 3 in the EN's requirements; and*
 - *the substitution of the plan annexed to this decision for the plan attached to the EN.*
2. Subject to the correction and variations, the appeal is dismissed, the EN is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Matters Concerning the Notice

3. The alleged breach of planning control described in the EN is "*the material change of use of the premises to a House in Multiple Occupation (HMO), flats and landlord's storage*". Step 1 of the EN's requirements seeks to cease the use of the

premises as an HMO. There is no requirement to cease the use of the premises as flats or landlord's storage. The Council has confirmed that it was their intention to under-enforce the breach of planning control. I am therefore satisfied that Step 1 of the EN's requirements is correct in so far as it relates to what use shall cease.

4. The HMO is located to the ground floor of the property. Therefore, Step 1 of the EN's requirements should be varied to reflect this. As the variation is for precision, I am satisfied it would not prejudice either party.
5. Step 2 and Step 3 of the EN's requirements include the removal of internal partitions, bathrooms and kitchens to the first and second floors, and the restoration of the internal configuration of the whole property. These requirements affect the flats, which the Council is not enforcing against. Consequently, the Council has suggested that Step 2 and Step 3 are deleted from the EN. As this variation would make the EN's requirements less onerous, I am satisfied that their omission would not prejudice the appellant.
6. The plan attached to the EN identifies the land or premises affected with a bold black outline. It includes part of a hard surfaced access to the rear of the detached garage that provides entry to several garages which, at the time of my site visit, did not form part of the land or premises affected.
7. I invited views from both parties on the omission of this area of land from the EN plan. The Council did not object. No response was received from the appellant. As the correction would reduce the area of land identified by the EN, I am satisfied that it would not cause injustice to either party. Therefore, I shall correct the plan accordingly.

Preliminary Matter

8. The second paragraph of the EN's reasons for issuing the EN refer to Policy BH10 of the Brent Local Plan 2019-2041, adopted 2022 ("LP"). However, the Council's Statement of Case refers to LP Policy BH11. The appellant has had an opportunity during the appeal process to comment upon LP Policy BH11 and therefore has not been prejudiced.
9. The EN alleges a mixed use of HMO, flats and landlord's storage. The appellant does not dispute that a mixed use has taken place and they are seeking deemed planning permission under ground (a) for the breach of planning control defined in the EN. Therefore, the relevant period for the breach of planning control to be immune from enforcement action is 10 years. This is outlined within the Council's reasons for issuing the EN.
10. The appellant asserts that the HMO use occurred in 2016. They have submitted evidence in support of this matter including tenancy agreements, bank statements, a letter from their accountants etc. However, the appellant has not appealed under ground (d) – that at the date the EN was issued, no enforcement action could be taken. Therefore, this could amount to a "*hidden ground*".
11. The EN was issued on 8 December 2023, which is within 10 years of 2016. Accordingly, even if there was a hidden ground (d) appeal, it would clearly fail. As such, I did not seek the parties' views on this matter.

Appeal on Ground (a) and the Deemed Planning Permission

12. An appeal under ground (a) is that planning permission should be granted for the matter alleged. The **main issues** are:

- the principle of an HMO in this location with reference to the loss of a purpose-built, family dwelling and its accessibility to amenities;
- the effect of the development on the living conditions of existing and future occupiers of the appeal property in respect of the quality of the internal accommodation, cycle storage and outdoor amenity space; and
- the effect of the development on the living conditions of the occupiers of neighbouring properties in respect of noise and disturbance; bin storage and garden maintenance; and demand for on-street parking.

Reasons

Principle of the HMO

Loss of Family Dwelling

13. The appeal site comprises a two-storey, semi-detached property. The appellant asserts that it was originally built as a 3-bedroom dwelling, but it has been extended to the rear with a single storey and dormer window. LP Policy BH11 opposes the conversion of family sized dwellings (3 bedrooms or more) to two or more dwellings unless three criteria are met.
14. The Council state that the development does not comply with criterion (b) – that the conversion includes at least a 3-bedroom dwelling, preferably with direct access to a garden/amenity space. However, the HMO is located on the ground floor of the property; has three bedrooms; and there is direct access to the rear garden. Consequently, the development complies with criterion (b) of Policy BH11.
15. The Council has confirmed that the appeal site is within Public Transport Access Level (“PTAL”) 3 and therefore it complies with criterion (c) of LP Policy BH11. Furthermore, they have not raised concern that the development does not comply with criteria (a). Therefore, I must assume that the property is 130 sqm or more.
16. For these reasons, the development complies with LP Policy BH11.

Accessibility

17. LP Policy BH7 supports the provision of non-self-contained or self-contained residential accommodation with shared facilities (such as HMOs) if the development meets all of criteria (a) – (e). Criterion (a) requires the development to be “*in an area with good access to public transport and other amenities, including shops (normally within 400m)*”.
18. The Council’s Houses in Multiple Occupation Supplementary Planning Document, adopted 2022 (“SPD”) builds on LP Policy BH7. The SPD states that the intention of criterion (a) is to ensure that a range of facilities can be reached, through a relatively short walk of 400 metres, and the facilities will need to be capable of meeting a range of day-to-day needs.

19. The nearest facilities to the appeal site are located at a parade of shops on Kingsbury Road, which the Council assert are 500m away. The distance has not been disputed by the appellant and therefore, I have no reason to disagree with the Council's assertion.
20. The SPD states that where the HMO is in an area that is PTAL 4 or higher, greater flexibility will be allowed in relation to the 400m proximity. However, the appeal site is within PTAL 3. It is for these reasons that the development fails to adhere to criterion (a) of LP Policy BH7.
21. The Council have also stated that the development fails to comply with criterion (b) of LP Policy BH7. However, as a development must meet all of criteria (a) to (e), it is not necessary for me to assess the development's acceptability or otherwise against criterion (b).

Living Conditions – Existing/Future Occupiers

Quality of HMO Accommodation

22. Two of the HMO's bedrooms and the shared shower room open directly onto the shared open plan kitchen/dining/living area. Furthermore, the occupier(s) of the HMO's third bedroom must walk through the hallway shared with the occupiers of the flats above and through the shared open plan kitchen/dining/living area to access the shared shower room. This is contrary to the SPD and demonstrates substandard living conditions for the occupiers of the HMO.
23. The Council assert that the HMO's internal communal amenity space is inadequate for the number of occupants. I have not been provided with the size of the shared kitchen/dining/living area to enable me to assess its size against the SPD's requirements. Notwithstanding this, at the time of my site visit, insufficient space was available for a sofa and a dining table to be used simultaneously. Consequently, the internal communal amenity space appeared cramped. Furthermore, the appellant has not disputed the Council's assertion and therefore, I have no reason to disagree with the Council.

Outdoor Amenity Space/Cycle Storage

24. To the rear of the property is a large garden. It can be accessed by all tenants either through one of the HMO's bedrooms, or via a footpath adjacent to the dwelling's side elevation. However, I have not been provided with the rear garden's dimensions to gauge whether it is of a sufficient size to comply with the SPD's requirements.
25. There is no separation between the shared garden and the windows serving the HMO's two rear bedrooms. This results in privacy issues for tenants occupying these rooms.
26. No cycle storage facilities were evident during my site visit. I appreciate that the rear garden is relatively large and therefore, could accommodate the provision of cycle storage facilities. However, I am uncertain from the information before me, whether including cycle storage within the rear garden would retain sufficient outdoor amenity space for the tenants.

Conclusion: Living Conditions – Existing/Future Occupiers

27. For these reasons, the living conditions of the occupiers of the HMO are harmed by the quality of the internal accommodation and external amenity space. It therefore conflicts with Policy DMP1 of the LP which, amongst other things, seeks to ensure developments provide high levels of internal and external amenity.

Living Conditions – Neighbouring Occupiers

Noise and Disturbance

28. The appeal property is semi-detached and is located on a residential street. A copy of the property's HMO licence states that each of the three bedrooms to the ground floor can accommodate a maximum of two occupiers each, although the HMO is restricted to five people. The three self-contained flats on the first and second floors can accommodate a maximum of five occupiers in total. Hence, 10 people could occupy the property at any one time.
29. Families occupying a single dwelling are more likely to undertake day-to-day activities together as a household. Where-as the occupiers of an HMO and three self-contained flats are likely to lead independent lives from one another.
30. Taking account of the size of the property; the activity generated by up to 10 people living independent lives, with separate routines, and their associated comings and goings; and the comings and goings of tenants' visitors and deliveries, the development creates a significantly increased level of activity above that which could reasonably be associated with a family occupied dwelling, even one occupied by a large family. Consequently, the level of activity associated with up to 10 people living together harms the living conditions of the occupiers of neighbouring properties.
31. I acknowledge the occupier of the attached dwelling has no objection to the development at the appeal site and they have not experienced any "*unruly nuisance or anti-social behaviour*". Furthermore, the appellant asserts they have good intentions and responsibility with regards to the property. However, it is not uncommon for an HMO to have a high turnover of occupants. Therefore, I must consider the potential effect of the development on the living conditions of neighbouring properties over its lifetime, during which the occupiers of properties and the behaviour of tenants may differ.
32. I appreciate that at the time of my site visit, the road on which the property is located had an almost continuous movement of vehicles along it. Also, the property is close to the junction with the A4140. However, I do not have a noise survey before me and therefore, I am unable to determine whether vehicle noise in the surrounding area is of a level that would mask the noise and disturbance associated with the property's comings and goings to an acceptable degree.

Property Maintenance

33. The property has a front garden used for off-street parking and contains an informal bin storage area adjacent to the boundary wall. The rear garden is laid to lawn. The Council has raised concern regarding the future maintenance of the property's garden and the lack of a management plan for waste disposal.

34. During my site visit I saw that the garden was well maintained and there was no evidence of overflowing bins. While I accept this was a snapshot in time, I have limited evidence before me to suggest that these matters have been problematic. Furthermore, if I were to allow the appeal, conditions could be attached for a management plan and a formal bin storage area to be agreed between the parties.

Demand for On-Street Parking

35. Most dwellings along Princes Avenue have an area for the parking of vehicles within their front garden. There are no parking restrictions along this part of the road, other than at the junction with the A4140. Furthermore, some dwellings have access to a garage to the rear which could be used for off-street parking. The appeal property has two off-street parking spaces which were in use at the time of my site visit.
36. I undertook my site visit on a weekday. There were some vehicles parked on the road, but space was still available for additional vehicles to park. I appreciate this was a snapshot in time. However, I have not been provided with evidence to suggest that there is high demand for on-street parking in the surrounding area, or that it is problematic at times.
37. Even if there was high demand for on-street parking in the surrounding area, criterion E of Policy T6.1 of The London Plan requires sui-generis residential uses to be car-free, which could be conditioned if I was minded to allow the appeal. Therefore, it is unclear how the development would lead to an increase in demand for on-street parking in the surrounding area.

Conclusion: Living Conditions – Neighbouring Occupiers

38. For the reasons detailed above, I do not find that the development has a harmful effect on the living conditions of the occupiers of neighbouring properties in respect of demand for off-street parking and property maintenance. However, I have found that it has a detrimental effect on the living conditions of the occupiers of neighbouring properties with reference to noise and disturbance.
39. The development therefore conflicts with LP Policy DMP1 which, amongst other things, seeks to ensure that development does not unacceptably increase general disturbance.

Other Matters

40. The appellant asserts that there are several properties on Princes Avenue with similar conversions and, in some cases, are being used as care homes. However, I have not been provided with property addresses or whether planning permission has been obtained or indeed was required. Therefore, I cannot determine whether they are directly comparable to the development. In any event, I must determine each case on its own merits.
41. The Council raises concern that the unauthorised material change of use results in transient populations replacing settled family occupants; social cohesion impacts; and changes in supporting community infrastructure such as shops. However, these matters have not been substantiated with evidence. It also asserts that external alterations undermine clear local character. However, the breach of planning control detailed within the EN only refers to a material change of use.

Conclusion

42. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a correction and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

A Berry

INSPECTOR

Amended Plan

This is the plan referred to in my decision dated: 28th January 2026

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Scale: Not to Scale

