



Appeal Decision

Site visit made on 17 December 2025

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2026

Appeal Ref: APP/T5150/C/23/3336134

54 College Road, Wembley HA9 8RJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Vehap Ferati against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 22 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a house in multiple occupation (HMO) and flat.
 - The requirements of the notice are to:
 - STEP 1 Cease the use of the premises as flats.
 - STEP 2 Cease the use of the premises as a House in Multiple Occupation (HMO).
 - STEP 3 Remove all kitchens and cooking facilities, except ONE, from the premises and remove all associated items, debris, and materials, arising from this removal, from the premises.
 - STEP 4 Remove all bathrooms and bathroom facilities, except TWO, from the premises and remove all associated items, debris, and materials, arising from this removal, from the premises.
 - STEP 5 Remove all partition walls, facilitating the unauthorised change of use from the premises, and remove all associated items, debris and materials, arising from this removal from the premises, so that the internal layout of the premises is returned back to a single family dwellinghouse as existed prior to the unauthorised use took place.
 - The period for compliance with the requirements is six months.
 - The appeal is made on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - 1) The deletion of the text from Schedule 2 and its substitution with: "Without planning permission the material change of use of the premises to a mixed use, comprising of a house in multiple occupation (HMO) and a flat."
 - 2) The deletion of the word *flats* and the substitution with the words *a flat* in STEP 1.
2. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. I have been appointed to determine three other appeals at the appeal property, references APP/T5150/C/23/3336131/3336132/3336133. Those appeals are the subject of separate decisions.
4. The appellant stated that "The development subject of this appeal is for the material change of use of the premises to a House in Multiple Occupation (HMO).

It is important to clarify that the property has been converted into a 4-bedroom HMO and does not accommodate a flat.”

5. However, and whilst the appellant has not sought to demonstrate, nor provided evidence that the use alleged in the notice has not occurred, this is a matter pertinent to an appeal on ground (b). Although this ground was not pleaded, the Council has had an opportunity to comment on the representations, I shall therefore consider the appeal as though this ground had been pleaded.

The ‘hidden’ appeal on ground (b)

6. An appeal on ground (b) is that the matters alleged have not occurred as a matter of fact.
7. In planning terms, a self-contained flat is a separate dwelling whereas an HMO is a single dwelling in use by people sharing (or having access to) at least one shared facility.
8. In their submissions the Council stated that at their visit on 14 October 2022, the case officer noted, after entering through the front entrance that there was a door on the ground floor which led into a self-contained unit of accommodation. The ground floor accommodation contained two bedrooms, a bathroom, and a kitchen/living/diner area which is within a new rear extension, the subject of another enforcement notice and appeal. It therefore contained all the facilities required for day-to-day private domestic existence.
9. The occupant of the ground floor accommodation claimed that the residents of the whole property were all one family however, they were not able to provide the Council access to the remainder of the premises.
10. At a later visit, the Council saw that the first-floor accommodation consisted of two bedrooms both with en-suite bathrooms. The second-floor loft conversion consisted of a bedroom, a kitchen/diner and bathroom. The Council stated that the first and second floor accommodation appeared to be in use separate from the ground floor, also noting two doorbells next to the front door of the property, as shown in their photographs.
11. The Council’s photographs from their visit also show fridges in the first-floor bedrooms, and I also observed that the bedroom doors were lockable. The Council’s photographs also show clothes drying in two of the bedrooms. Such features and arrangements would be unusual if the upstairs accommodation, indeed the whole property, were occupied by a single family and more probably point to the use of the accommodation by a number of unrelated individuals, as an HMO.
12. At my visit, I saw that the door to the ground floor accommodation had been removed. However, the question is whether the breach had occurred by the date of issue of the enforcement notice. If the alleged use had occurred, an appeal on ground (b) cannot succeed simply on the basis that the use had ceased.
13. On the balance of probabilities, the evidence indicates the ground floor was in use as a self-contained flat and the upper floors were occupied by multiple unrelated individuals or groups, as an HMO, at the time the notice was issued. It follows that the appeal on ground (b) must fail.

14. The arrangements are unusual in that the ground floor flat was contained behind a door, but the stairs to the HMO were open, such that in theory the occupants of the ground floor accommodation could access the upper floors, albeit there is no evidence that they did. Nevertheless, given the physical relationship between the uses, I consider the development that has occurred is a mixed use, and the allegation and requirements should be corrected as set out in my decision above, doing so will cause no injustice as it will not change the notice in substance.

The appeal on ground (a) the deemed planning application

15. The appellant's case on ground (a) is essentially made on the basis of the use as a four-bedroom HMO. However, the terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice.
16. Accordingly, based on the reasons given for issuing the notice, the main issues are the effect of the use on (i) the living conditions of occupants with regard to the standard of accommodation (ii) the living conditions of neighbouring occupants with particular regard to noise and disturbance (iii) the supply of family housing in the borough (iv) accessibility and parking.

Standard of accommodation

17. The flat consists of two bedrooms, a bathroom and multi-purpose space which includes a kitchen/living/dining area. Part glazed doors and windows overlook a decked area and the rear garden.
18. I have no details about how many people occupied the flat however, based on the appellant's measurements for the ground floor front double bedroom and the living space, it would likely meet the space standards for a two-bedroom, three-person dwelling set out in Policy D6 of The London Plan 2021.
19. In respect of the HMO, the bedrooms would be adequate in size if there was reasonable access to adequately sized communal living space in which occupants could eat meals, watch TV, or otherwise relax and undertake everyday household tasks. However, the multi-purpose kitchen/dining/living space is very modest in size, indeed at my visit I saw the washing machine was located in the second-floor bathroom and as already stated, the Council's photographs show occupants drying clothes in bedrooms. Moreover, use of this space would compromise the privacy and quiet enjoyment of the occupants of the second-floor bedroom.
20. There is a reasonably generous garden to the rear, which if the occupants of the HMO have access to, would comply with Policy BH13 of the London Borough of Brent Local Plan 2019-2041 Adopted February 2022 (Local Plan). However, it is not clear whether the occupants have access to the garden and if they did, this would compromise the privacy and quiet enjoyment of the occupants of the flat.
21. For these reasons, the accommodation does not provide satisfactory living conditions for occupants contrary to policies BH7 and DMP1 of the Local Plan which together require development to be of an acceptable quality and provide high levels of internal amenity. It also conflicts with the National Planning Policy Framework (the Framework) which seeks to ensure a high standard of amenity for existing and future users of buildings.
22. My assessment is based upon the existing layout however, the single-story rear extension, dormer window, and hip to gable end roof extension, which have

facilitated the loft conversion, are subject of separate enforcement action and appeals. It follows based on my above conclusions that without those extensions the accommodation would not provide satisfactory living conditions.

Living conditions of neighbouring occupants

23. The property is an end of terrace dwelling located in what I observed to be a relatively quiet residential area.
24. It seems likely to me that the use as an HMO and flat would result in an increase in activity within the property, and comings and goings, due to the movements generated by a collection of individuals occupying the property, rather than a single family, due to different timetables, working and socialising patterns. And, that this could cause general disturbance to neighbours, due to an increase in residential activity associated with the use. Indeed, the Council stated that they have received a number of complaints regarding the use.
25. I acknowledge the measures set out in the proposed management plan however, I am not persuaded that the measures would provide a sufficiently robust mechanism to ensure that noise does not occur in the first instance, with the onus remaining on neighbours to report any noise and disturbance. Moreover, a condition requiring the implementation of the management plan to control external noise would be unlikely to pass the relevant tests for conditions.
26. Additional bin storage could be provided within the site which could be, along with the requirement for a waste disposal and garden management plan, secured by condition.
27. However, for the reasons given, the use conflicts with the aims of Policy DMP1 of the Local Plan in so far as it aims to protect living conditions, and the amenity protection aims of the Framework.

Supply of family housing

28. Policy BH11 of the Local Plan aims to resist the loss of family sized homes (three bedrooms or more), unless three criteria are met; a) the existing home is 130 sqm or more or could acceptably be extended to be that size; b) it results in at least a 3-bedroom dwelling, preferably with direct access to a garden/ amenity space; and c) it is within an area of PTAL 3 or above.
29. The justification to the policy sets out that the policy seeks to allow for efficient use of existing housing stock through the conversion of existing larger dwellings to assist in meeting housing targets. However, it also seeks to ensure continued provision of family sized housing (3 bedrooms or more) suitable for occupation by families to meet Brent's housing needs.
30. There is no dispute regarding criteria a) (size), and since the appeal was made it seems that the PTAL rating of the locality has increased to three, and it is only preferable that there is direct access to a garden/ amenity space.
31. However, the flat has only two bedrooms. Although the HMO would provide a three-bedroom dwelling, this could not be considered a form of family housing which the policy seeks to safeguard against the loss of. Accordingly, the development is contrary to Policy BH11 of the Local Plan.

Accessibility and parking

32. The PTAL rating of the locality is three, therefore it is evident that occupants of the HMO have good access to public transport, and I observed that the site is within easy walking and cycling distances of services and facilities on Preston Road.
33. I recognise that if occupants of the appeal property all had cars this would increase pressure for on-street parking in the area. However, in respect of the HMO accommodation, which the justification to Policy BH7 states, is likely to be aimed at people with limited accessibility to personal transport, and the accessibility of services and facilities by non-car modes, I consider this reduces the desire to own a car.
34. I acknowledge there is also a flat however, there is off-street parking for at least one, possibly two vehicles at the front of the property and most properties along the road have off-street parking provision.
35. In the absence of evidence that there is a material shortage of parking or that the use has resulted in an increase in demand for on-street parking, and since there is room within the site to provide cycle parking which could be secured by condition, there is no harm and no conflict with Policy BT2 of the Local Plan or policies T6 and T6.1 of The London Plan 2021 which set out maximum standards.

Other Matters

36. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice. Nevertheless, I do have the power under section 177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice. However, even if the proposed use as a four-bedroom HMO properly fell within the statutory power to grant planning permission, there are no details before me in respect of the proposed layout, which would be necessary to inform an assessment, given my conclusions in respect of the appeals concerning the single storey rear and dormer roof extension.

Overall conclusion on ground (a)

37. The HMO and flat are in an area with reasonable access to public transport and other amenities and there is no evidence that the HMO would lead to an over-concentration of the type of accommodation in the area. However, these considerations do not outweigh the conflict with policies DMP1, BH7 and BH11 of the Local Plan in respect of the harm to the living conditions of occupants and neighbours and the loss of family housing.
38. As such, the use as an HMO and a flat, is contrary to the development plan when read as a whole. In this case, there are no material considerations of sufficient weight to indicate that the appeal should be determined other than in accordance with the development plan.

The appeal on ground (f)

39. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control or to remedy injury to amenity.

40. Since the notice requires the use to cease and that all kitchens except one, and all except two bathrooms are removed, I find its purpose is to remedy the breach of planning control. The appellant's case is that it is excessive to require the removal of all but two bathrooms.
41. It is a well-established principle that a notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use.
42. It seems to me, in the absence of evidence to the contrary, that the number of bathrooms facilitated the unauthorised use, and there is no evidence that the property previously had more than two bathrooms. Accordingly, it is not excessive, in order to remedy the breach of planning control, to require their removal, along with all but one kitchen and the cessation of the use as an HMO and a flat.
43. The appeal on ground (f) fails.

Conclusion

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

Felicity Thompson

INSPECTOR