



Appeal Decision

Site visit made on 12 February 2026

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 29 April 2026

Appeal Ref: APP/G5750/C/25/3373883

Land at 137 Claremont Road, Forest Gate, London E7 0PY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- The appeal is made by Ms Fatima Yusuf against an enforcement notice issued by the Council of the London Borough of Newham.
- The notice was issued on 27 August 2025.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the property from a residential dwellinghouse (Use Class C3) to a mixed use comprising a bakery and residential dwellinghouse.
- The requirements of the notice are to cease the use of the property as a mixed use comprising a bakery and residential dwelling.
- The period for compliance with the requirement is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) of the 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 Act.

Decision

1. 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 Act.

Appeals on ground (b) and (c)

2. An appeal on ground (b) is a claim that the matters stated in the notice (which may give rise to the breach of planning control) have not occurred as a matter of fact.
3. An appeal on ground (c) is that the matters alleged in the enforcement notice, if they occurred, do not constitute a breach of planning control. The onus of proof in ground (b) and (c) appeals is on the appellant and the test of the evidence is on the balance of probability.
4. The appellant contends that a home activity only constitutes a change of use if the business becomes the main use; if visiting members of the public attend the premises; if noise, traffic or disturbance exceeds residential level and if the domestic character is lost. The appellant claims that none of these matters apply at the appeal site and that the baking activity is ancillary as it is a normal domestic activity, there is no commercial equipment used, the kitchen remains primarily domestic, domestic utilities and storage are used by the family for ordinary cooking. There are also no signage, shopfront display, advertising and goods displayed at the appeal property with the appellant considering that the activity is invisible to passers-by.
5. From the submitted evidence, which includes website screenshots, Instagram posts, details from Companies House and food business registration, and

affidavits, it is apparent that a bakery business is being ran from the appeal site. There is no dispute that the appeal site is a residential property in which the appellant and her family reside.

6. For a material change of use to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree.
7. At my site visit I saw seven fridges within various rooms at the appeal site (including within the sheds in the back garden area), two of which were large commercial style fridges, with several of them having large numbers of cakes stored in them. One fridge had large amounts of cartons of cream and cream cheese and in one of the sheds there were large amounts of cleaning equipment. There was also numerous shelving, including wire rack shelving, both inside and outside the appeal property as well as in the sheds, some of which had the storage of large amounts of various dishes, pans, pots and baking trays. Photographs in appendix 5 of the Council's statement of case show similar observations. In addition, these photographs show large amounts of cake boxes folded up as well as round and heart shaped baking trays and a gazebo in the garden with an outdoor sink. They also appear to show stand alone equipment such as a separate oven/cooker and a blender.
8. Website screenshots from appendix 3 of the Councils statement of case, details that the bakery business is located at the appeal site and provides a wide range of cakes, brownies and cookies. Opening hours for the bakery business is described as being Monday to Friday from 12pm to 7:30pm. The website does explain that *"due to still having a very small team, we are not able to deliver small daily cakes"*, with the website further stating *"plus we are definitely worth visiting!"*. The Council have described reports from complainants detailing the appeal site having high volume of customers visiting the property. There has also been correspondence from interested parties submitted with this appeal that describe customers visiting the appeal site with also a report of floodlighting being used in the rear garden. The submitted affidavits also describe customers visiting the appeal property. Neither the Council nor the appellant describe how many or how often customers visit the appeal property. However, the bank statements provided by the appellant, particularly from the period from 2022 to 2025, show extensive "money in" transactions from different customers. Given the majority of cakes cannot be delivered by the appellant, this would therefore mean, based on the number of transactions shown in the bank statements, that a large number of customers visit the appeal property to collect orders.
9. Whilst there are no physical alterations to the appeal property itself, the amount and type of equipment that is both within and outside the appeal property as well as the number of customers visiting the property, it is a significant difference in the character and a material change of use has occurred.
10. On the balance of probability and from the evidence before me, I am satisfied that a material change of use has occurred from a residential dwellinghouse to a mixed use comprising a bakery and a residential dwellinghouse.
11. Consequently, the appellant has failed to demonstrate that at the date the notice was issued the matters alleged had not occurred, and the appeal on ground (b) must fail.

12. The concept of a mixed use is one of two or more primary uses existing within the same planning unit and one is not incidental to the other. The planning unit in this appeal is the property of 137 Claremont Road including its outdoor front and rear areas. The appellant argues that the bakery activities are ancillary to the residential dwellinghouse use. The bakery activities, which include storage of materials/ingredients and finished products, are undertaken in multiple rooms of the property including outdoor areas. This and with the level of bakery activity that is demonstrated from the submitted evidence including the bank statements, the bakery activities are not ancillary to the residential dwellinghouse and does constitute a primary use which forms the mixed-use as alleged in the notice.
13. At the date the notice was issued the active use of the property was a mixed use as a bakery and a residential dwellinghouse. As described the change of use to this mixed use is materially different in character and effect from its previous use as a sole dwellinghouse. The change of use from one to the other is therefore a “material change of use” and constitutes “development” as defined at Section 55 of the Act.
14. Planning permission is required for the development. However, there are no permitted development rights to make such a change within the Town and Country Planning (General Permitted Development) Order 2015 as amended, and no planning permission has been granted by the Council.
15. Therefore, the making of a material change of use from residential dwellinghouse to a mixed use of bakery and a residential dwellinghouse amounts to “development”. Since the development has been carried out without the required planning permission it thereby constitutes a breach of planning control. The appeal on ground (c) therefore fails.

Appeal on ground (d)

16. In order for an appeal on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late for enforcement action to be taken. The burden of proof is on the appellant and the relevant test is the balance of probability. If the Council has no evidence itself to contradict or otherwise make the appellant’s version of events less than probable, an appeal on ground (d) can succeed, provided that the appellant’s evidence alone is sufficiently precise and unambiguous.
17. With regard to use of land, section 171B(3) of the Act states that no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach. Therefore, in this case, in order to be lawful, the alleged use must have commenced at least 10 years before the date of the enforcement notice (hence before 27 August 2015) and continued without any significant interruption thereafter for at least a 10-year period of time.
18. The appellant contends that the bakery activity has been undertaken continuously for over 10-years with evidence to establish this including bank statements, Instagram postings and letters from long-term customers. This evidence is examined in the following paragraphs.
19. Bank statements from the appellant ranging from January 2012 to November 2025 have been submitted. The statements from January 2012 to November 2021 are from the current account of the appellant with transactions relating to the bakery

activities highlighted in these statements. The remaining statements from December 2021 to November 2025 are from a business current account identified as Fatima Salim Yusuf Ltd trading as the Bakeress.

20. From 2012 to 2016, the bank statements show a steady increase in transactions relating to bakery activities, with around 25 transactions made in 2012 and transactions rising each year with over 400 transactions in 2016. There is no bank statements submitted for the year of 2017. For the years of 2018, 2019, 2020 and 2021, it is shown that there were transactions relating to the bakery activities made in each of these years of approximately 15, 40, 140 and 320 respectively. In 2022, around 2400 transactions were made in relation to bakery activities, with over 4000 transactions made in 2023, around 2000 transactions in 2024 and over 4000 transactions in 2025.
21. The 'money in' transactions mostly appear to relate to the sale of products. Whilst there is no definite number of sales or overall transactions which can clearly define whether bakery activities are classed as a hobby or a commercial business, the trend in the amount of transactions over the years can offer some insight into whether activities are ancillary to the residential use of the property or become a mixed use. In my mind, the sale of a bakery product once a week (so up to 52 a year) could fall within the region of being a hobby. Whereas, the sale of a bakery product every day (so up to 365 a year), I consider could reasonably be classed as falling within a commercial business use. On this premise, and from the transactions shown in the bank statements, it may be that the bakery activities at the appeal site between the years of 2012 and 2016 could have evolved from a hobby to an activity which can be classed as a mixed use of a bakery and a dwelling. Similarly, from 2018 to 2025, based on the transactions each year, it could be argued that the bakery activities were a hobby that became a business overtime and therefore a mixed use as a bakery and a residential dwelling.
22. Crucially though, on the matters of the bank statements and transactions relating to the bakery activities, there are no bank statements provided for the year 2017. This therefore points towards no bakery activities or sale of goods being undertaken in 2017. Notwithstanding my comments in the paragraph above, even if I were to find that the amount of transactions shown in all the submitted bank statements constituted a material change of use to a mixed use as alleged in the notice. Given there is a gap in 2017, a continuous period of 10 years as a mixed use cannot be shown. There is no compelling evidence before me, particularly with the absence of bank statements from 2017, that a mixed use has described in the notice has been undertaken from the site for a continuous period of 10 years.
23. Various Instagram posts have been submitted dated from 2012 to 2024. These posts are from the Instagram account named "thebakersslove" and generally are of images of various types of cakes and baked goods. Whilst some of the posts have the location identified as Forest Gate, it is not substantially clear from the posts that all of these cakes and other goods were made at the appeal property as part of a bakery activity. These images shown in the Instagram posts do not provide convincing evidence that a bakery has been operating as part of a mixed use from the appeal site for a continuous period of 10 years.
24. Approximately six letters from other businesses have been provided. All of the letters indicate that they have purchased cakes from the appellant on a regular basis from at least 2012 with some detailing that they collect cakes from the

appeal property. These letters do not provide specific details in terms of how many cakes are purchased and most of the letters indicate that cakes are bought on a monthly basis. Given the level of activity described in these letters, I am not convinced that this shows a continuous period of a mixed use of a bakery and residential at the appeal site.

25. Accordingly, having regard to all of the evidence before me, I find as a matter of fact and degree and on the balance of probability, that the whole of the appeal site has not been in a mixed use as a bakery and a residential dwellinghouse for more than 10 years on a continuous basis before the date of the application.
26. It was not too late for the Council to take enforcement action on these matters and the appeal on ground (d) therefore fails.

Appeal on ground (a)

27. This ground of appeal is that planning permission should be granted for the matters alleged in the notice.

Main issues

28. The main issues are whether the development is suitably located and the effect of the development on the living condition of occupiers of neighbouring properties with regards to noise and disturbance.

Reasons

Location

29. The appeal site is located within a predominantly residential area and not considered to be within a town or high street commercial location. A bakery, which forms part of the mixed use described in the notice, is an activity which would usually be found in a commercial area. Due to its location, the development has an adverse effect on the vitality and viability of commercial town centres and high streets in the near locality.
30. The development has a harmful effect on the vitality and viability of town centres and high streets and therefore is not suitably located. It does not accord with Policies S6, SP6, SP7 and SP8 of the Newham Local Plan (NLP) and Policies SD6, SD7 and SD8 of the London Plan (LP) which seek the economic role of area to be based on its town and local centres and the vitality and viability of town centres to be promoted and enhanced.

Living conditions

31. The appellant contends that the development has no effect in terms of noise, disturbance, traffic congestion, highway safety, odours or environmental impacts; and that this is evidenced through the submitted affidavits stating that there are no concerns from local residents. There is, however, conflicting accounts from neighbouring occupiers submitted to this appeal, that describe adverse effects from customers collecting orders from the appeal site as well as noise and light disturbance coming from the property and the rear outdoor area.
32. As detailed above, it is apparent given the level of activity associated with the bakery, that a high level of customers visit the property on a regular basis to collect goods which would not be expected in a residential environment such as in the

area surrounding the appeal site. The number of customers visiting the property on a regular basis would create noise and traffic congestion through the parking of vehicles in the street, that would disturb the living conditions of occupiers of neighbouring properties. Off street and on street parking appears to be limited in the area, and should customers to the appeal property park in an inconsiderate manner, such as blocking driveways or mounting the pavement, this could also lead to highway safety concerns.

33. Bakery activities within the property, given the nature of the activities, is unlikely to cause an issue to neighbouring occupiers in terms of noise. However, external activities and the use of floodlighting, given the extent of the bakery activities at the site can have a detrimental effect on the residential environment and enjoyment of neighbouring occupiers.
34. Due to the level of bakery activities undertaken at the site, the development does have a harmful effect on the living conditions of occupiers of neighbouring properties in terms of noise and disturbance. It does not accord with Policies SP1, SP2, SP3 and SP8 of the NLP and Policies D1 and D14 of the LP which seeks the promotion of healthy lifestyles, the avoidance of problems related to 'bad neighbour' uses, the creation of safe and secure environments, and the avoidance of significant adverse noise impacts on health and quality of life.

Human rights

35. The appellant argues that requiring the cessation of the bakery activity would deprive her of a long-standing livelihood, which is the only source of income, that constitutes a disproportionate interference with Article 8 and Article 1, Protocol 1 of the Human Rights Act 1998 (HRA). There is no compelling evidence before me which indicates that the bakery activities cannot proceed in an alternative location. I have also found that the unauthorised bakery activities are harmful to the living conditions of occupiers of neighbouring properties which can also have effects in terms of the HRA.

Other matters

36. The bakery is a small business and a local enterprise that can be described as homeworking and a sustainable economic activity, and these are benefits. Nevertheless, these benefits do not outweigh the harm I have described above.

Conclusions on ground (a)

37. I recognise that the failure of this appeal could affect arrangements for the appellant. Having regard to the circumstances drawn to my attention, this would represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the HRA. However, having regard to the legitimate and well-established development plan policies which aim to safeguard living conditions of neighbouring occupiers, in this case I consider greater weight is attached to these. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant or her family members.
38. For all the reasons given above, I conclude that the material change of use of the property from a residential dwellinghouse to a mixed use comprising a bakery and residential dwellinghouse results in harm to the vitality and viability of town centres

and high streets, and to the living conditions of occupiers of neighbouring properties in respect of noise and disturbance, and this harm does outweigh the benefits described above. As such, it conflicts with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweighs this finding.

39. The appeal therefore fails on ground (a).

Appeal on ground (f)

40. An appeal on ground (f) is that requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. The notice requires the cessation of the mixed use as a bakery and a residential dwelling, and therefore the purpose is to remedy the breach of planning control.
41. The appellant argues that the cessation of the bakery use would prevent ordinary domestic baking activity that would be contrary to the Mansi principle¹. The Mansi principle details that the requirements of an enforcement notice must not purport to stop an appellant from doing something they are entitled to do given their existing lawful use rights and this extends to the carrying out of uses that are ordinarily incidental to the primary use of the planning unit. The requirement to cease the mixed-use would then revert the primary use of the appeal site to a residential dwellinghouse. The appellant would be able to undertake ordinary domestic baking activities incidental to the primary use as a residential dwellinghouse, and therefore would not be contrary to the Mansi principle.
42. The requirement to cease the use of the property as a mixed use comprising a bakery and residential dwelling goes no further than remedying the breach of planning control. For these reasons, the appeal on ground (f) fails.

Conclusion

43. For the reasons given above, I conclude that the appeal should fail on grounds (a), (b), (c), (d) and (f), and therefore the appeal is dismissed, and the enforcement notice should be upheld.

Chris Baxter

INSPECTOR

¹ Mansi v Elstree RDC [1964] 16 P&CR 153