



Appeal Decision

Site visit made on 5 May 2026

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Appeal Ref: APP/G5180/C/24/3348359

111 Poverest Road, Orpington BR5 2DZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Knapmill Estates Ltd against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 14 June 2024.
- The breach of planning control as alleged in the notice is *without the required planning permission, the material change of use of the land from a dwellinghouse (class C3) to a house in multiple occupation (class C4)*.
- The requirements of the notice are:
 - (a) Cease the use of the land as a house in multiple occupation (class C4)
 - (b) Restore the land to its condition before the breach of planning control took place
- The period for compliance with the requirements is: *within 4 months after the notice takes effect*
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (g) of the 1990 Act (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.

Formal Decision

1. The appeal is allowed and the enforcement notice is quashed.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. There is another appeal¹ at this site made by the same appellant against another enforcement notice issued by the Council of the London Borough of Bromley. This appeal notice relates to the erection of a part one/two storey side/rear extension, and a loft conversion with the erection of a hip to gable extension and rear dormer. Whilst at the same site these are independent appeals and are subject to separate decisions.
4. On the 1 September 2022 the Council of the London Borough of Bromley brought in a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The Article 4 Direction restricted 'permitted development' rights afforded by Article 3(1), Schedule 2, Part 3, Class L of the GPDO for the wards of Biggin Hill and Darwin (based on the ward boundaries as of August 2021). As such, development consisting of the change of use of a building from Class C4 (house of multiple occupation) of the Town and Country Planning (Use Classes) Order 1987 (the

¹ PINS Ref: APP/G5180/C/24/3348361

UCO) as amended, to Class C3 (dwellinghouses) of the UCO; or vice versa would require planning permission.

Appeal under ground (c)

5. An appeal under ground (c) is made on the basis that the matters stated in the notice (if they occurred) do not constitute a breach of planning control. In a legal ground of appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities².
6. The appellant contends that the appeal site was in use as a house of multiple occupation (HMO) for not more than six residents³ prior to the Article 4 directive coming into force on 1 September 2022, therefore no breach of planning control has taken place. However, the Council maintain its reason for issuing the enforcement notice, which essentially is that insufficient evidence has been provided to support this claim.
7. Following my site observations, it was apparent that there are currently six units at the property. I noted that each unit was accessed via a separate lockable door. However, at the time of my visit I was unable to access unit 2 on the ground floor or unit 5 on the first floor.
8. Of those units I was able to access and observe, namely units 1, 3, 4 and 6, I noted that they consisted of a bedroom area and en-suite facilities including a toilet, shower and basin. None of the units I visited contained private cooking facilities, other than rudimentary items such as kettles, toasters and microwaves. The main cooking facilities consisted of a communal kitchen, located at first floor level. The shared facilities included two ovens, two hobs with space for four pans, food preparation areas, a sink, cupboards and a washing machine. I am satisfied that the existing premise would therefore be considered as an HMO, rather than self-contained flats.
9. The question is, therefore, whether the material change of use from a dwellinghouse to an HMO had been undertaken prior to the Article 4 Direction being issued. The appellant has failed to supply any Statutory Declarations (SD) as evidence to corroborate their claim. However, the appellant has submitted a significant amount of alternative evidence as part of their appeal.
10. Various Assured Shorthold Tenancy (AST) Agreements and Leases, relating to units 1, 2, 3, 4, 5 and 6 have been submitted as part of their evidence, which highlight the obligations associated with the various tenants at the property. The submitted ASTs provide evidence in how the units have been used and the length of time that the tenants have been in residence at each unit. It is unlikely tenants would have entered into the AST agreements unless they resided at the property for the timeframes indicated. Consequently, based on this evidence submitted, the property appears to have been used as an HMO since at least February 2022.
11. Furthermore, bank statements and invoices have also been provided for all of the units, over a two-year period, with the earliest dating back to February 2022. These provide further tangible evidence of each of the units having been tenanted prior to the Article 4 Direction in September 2022. The appellant has also supplied electrical installation certificates for each of the units. The appellant has also

² *Thrasyvoulou v SSE & Hackney LBC (No 1)* [1984] JPL 732

³ A 'small HMO' in Use Class C4 of the UCO.

supplied an HMO license issued by the Council, albeit that it is dated October 2023, to which I have apportioned limited weight.

12. The provision of addressed utility bills, council tax records, services or other correspondence at the appeal site, would have provided additional assistance in verifying that the site had been used as six separate units, prior to the Article 4 Directive coming into effect. Whilst I do not have this evidence before me, it is well-established that an appellant's evidence should not be rejected simply because it is not corroborated by independent evidence. Conversely, the Council has advanced little by way of clear or compelling information to contradict the appellant's evidence or to make their version of events less than probable.
13. Overall, based on the evidence before me, and in the absence of any evidence to the contrary, there is no significant uncertainty over the use of the property as an HMO prior to the Article 4 Direction. I must therefore conclude that the appellant has discharged the burden of proof, and as a result the ground (c) appeal succeeds. I shall quash the notice.
14. The appeal under ground (a), the deemed planning application and appeal under ground (g) do not therefore fall to be considered.

Conclusion

15. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed.

Robert Naylor

INSPECTOR