



Appeal Decisions

Site visit made on 1 June 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2026

Appeal Refs: APP/G5750/C/24/3337110 (Appeal A) & 3337111 (Appeal B) 4 Earlham Grove, Forest Gate, London E7 9AL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Mahbub Ali (Appeal A) and Mrs Hajera Ali (Appeal B) against an enforcement notice issued by the Council of the London Borough of Newham.
 - The notice was issued on 14 December 2023.
 - The breach of planning control as alleged in the notice is: The material change of use to a *sui generis* house in multiple occupation (HMO).
 - The requirements of the notice are to:
 1. Cease the use as a *sui generis* house in multiple occupation.
 2. Remove all internal locks on bedroom doors.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a) & (d) 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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Decisions

1. The appeals are dismissed, and 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.

The appeals on ground (d)

2. The onus is on the appellants under ground (d) to make the case that, at the time the enforcement notice was issued, it was too late to take action against the matters stated in the notice. The enforcement notice is directed at the alleged: material change of use to a *sui generis* house in multiple occupation (HMO). Consequently, the appellant needs to show that the matters alleged in the notice occurred at least 10 years before it was issued (which was 14 December 2013).
3. However, no evidence has been submitted by the appellants to support this claim. Even without the countering evidence of the Council, the appellants have not met the required standard of proof in their own submission.
4. The Council's evidence contradicts the appellant's claim. On 14 November 2022, a planning enforcement investigation was created following a report that 4 Earlham Grove is in use as an HMO. The Council issued a Planning Contravention Notice (PCN), which was completed and returned by the owner of the property. This states that the owner is living in the property and that the remaining rooms are being rented out to unrelated occupants since 8 December 2022. The PCN also includes a completed sketch plan of the arrangement of the property at that time. This clearly shows a layout, largely similar to the layout I observed during my site visit

with a kitchen/diner on the ground floor, 3 bedrooms on the ground floor, 5 bedrooms on the first floor, and 2 bedrooms in the converted loft room.

5. On 6 February 2023, the owner submitted a planning application for the retention of change of use from residential house to continued use as a 9 bed HMO (Council ref: 23/00284/FUL). On page 4 of the signed application form, the owner stated that the change of use of to an HMO started on 15 October 2022.
6. It seems to me that the information contained within the completed PCN and the planning application provides the most clear, unambiguous and cogent evidence. Together these show that the use only commenced in late 2022. It is well established in planning law that the onus rests with the appellants to make out his or her case. However, on the evidence before me, I find that burden has not been satisfactorily discharged in this particular case.
7. On the balance of probability, I conclude that at the time the notice was issued it was not too late to take enforcement action against the alleged breach of planning control.
8. The ground (d) appeals therefore fail.

The appeal on ground (a) and the deemed planning application (DPA)

Main Issues

9. The main issues are:
 - Whether the HMO use is acceptable, having regard to the effect on the supply of single-family dwelling houses;
 - The effect of the use of the property as an HMO on the living conditions of neighbouring occupiers with particular regard to noise and disturbance and the character of the area; and
 - The effect of the use of the property as a HMO on the living conditions of current and future occupiers of the HMO, with particular regard to floorspace and layout, noise, and disturbance.

Reasons

Supply of single-family dwelling houses

10. Policy H4 of the Newham Local Plan, 2018 (LP) states that the Council will specifically protect 3 bed and 4+ bed family housing. The justification for this policy states that projected growth in the number of households over the Local Plan period up to 2033 effectively means there should be no (net) reduction in the housing stock, and a key element of the Local Plan is the very clear presumption against the loss of residential floorspace, with particular emphasis on protecting family housing. This support for larger family sized accommodation is also reflected in LP policies H1 H3, S1 and S6. These policies accord with the National Planning Policy Framework, 2024 (The Framework), which indicates that planning policies should reflect the housing needs of different groups, including families with children.
11. The evidence indicates that prior to the current unauthorised change of use, the property comprised a 3+ bedroom dwelling house. As such, the unauthorised

change of use has resulted in a loss of accommodation suitable for a family, for which there is an identified housing need in the Borough.

12. I conclude on the first main issue that the development has an unacceptably harmful impact on the supply of family dwelling houses, contrary to Policies H1, H3, H4, S1 and S6 of the LP, which amongst other things seek the aforementioned aims resisting the loss of existing larger family sized homes. The development is also contrary to Policy GG4 of the London Plan, 2021 (London Plan) which seeks to create mixed and inclusive communities, with good quality homes that meet high standard of design and provide for identified needs.

Living conditions of neighbouring occupiers with regard to noise and disturbance and the character of the area

13. The Council are concerned that the use of the appeal site as an HMO has resulted in noise and disturbance which harms the living conditions of neighbouring occupiers and the residential character of the area. In particular, during my site visit I observed that this section of the road is relatively quiet and comprises residential properties which are fairly closely spaced. Therefore, there is a susceptibility for the living conditions of neighbouring occupants to be affected by the introduction of a more intensive use.
14. The appellants claim that all the tenants are all working and they have a zero-tolerance policy and therefore there is no noise or disturbance issues, and I accept that there is not a harmful proliferation of bins, cycle parking or satellite dishes/aerials at the front of the property. Nevertheless, I observed 9 separate bedrooms within the property, which is also shown on the floor plans submitted by the appellants. As such, the existing HMO comprises up to 9 unrelated individuals/couples, all of whom have their own separate work/domestic regimes and attract their own visitors and deliveries at different times during the day and evening. In this respect, the HMO use is more likely to have increased the volume of movements to and from the property, than a single-family dwelling, and the range of times when these activities take place.
15. In addition, the HMO use, with 9 separate individuals/couples using the rear garden for recreation and for entertaining visitors is likely to have resulted in a more intensive use of the garden than would be the case with a single family occupying the property. Consequently, it is likely that there has been an increase in noise and disturbance to neighbouring occupiers.
16. Overall, I consider that the introduction of the HMO use has resulted in levels of noise and disturbance which adversely affect the living conditions of neighbouring occupiers. This derives from noise generated from 'comings and goings' outside of the building, increased vehicular and pedestrian movements and intensified use of the building and rear garden.
17. Therefore, whilst I find no harm in relation to the character and appearance of the area, I conclude that the change of use of the property to a HMO has resulted in a harmful effect on the living conditions of neighbouring occupiers, with regard to noise and disturbance, contrary to Policies SP2, SP3 and SP8 of the LP and Policy D14 of the London Plan. Amongst other things these state that all development is expected to achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive social, environmental and design impacts for neighbours on and off the site and improve health and wellbeing and quality of life.

Living conditions of current and future occupiers of the HMO – floorspace, layout, and noise and disturbance

Floor space and layout

18. The Council raises an objection that the HMO provides low quality, undersized accommodation and does not provide an adequate or healthy living environment for existing and future occupiers of the property. Policy D6 of the London Plan requires that development should be of high-quality design and provide adequately-sized rooms (see Table 3.1) with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Part 5) of Policy D6 states that any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage.
19. However, during my site inspection I observed that the front bedroom 8 in the converted loft space, has restricted headroom with a large section of the ceiling for this room sloping. No exact details have been provided to show what floorspace within this bedroom exceeds 1.5m in height. Nevertheless, the restricted roof heights for much of the bedroom resulted in the room feeling enclosed and cramped for its intended use, detrimental to the living conditions for the occupiers of the room, contrary to Part 5) of Policy D6.
20. Furthermore, bedroom 7 on the first floor only provides a gross internal area (GIA) of approximately 4.5sq.m and bedroom 6 only provides approximately 7sq.m GIA, below the minimum size requirements of the nationally described space standards (2015) and Policy D6 of the London Plan which requires single bedrooms are at least 7.5sq.m. In particular, both bedrooms appeared limited and cramped with a clear lack of built in storage and circulation space for occupiers of these flats. Indeed, I was unable to fully open the door for bedroom 6, since there were items/furniture stored immediately behind the bedroom door restricting access.
21. Therefore, 3 out of the 9 bedrooms proposed fail to accord with the minimum size requirements of the nationally described space standards (2015) and Policy D6 of the London Plan. This shortfall in bedroom sizes increases the need for adequate levels of communal areas for occupiers of the site to prepare, cook and eat food, and to relax. As a result, there is a significant reliance on the single communal kitchen/dining room on the ground floor to provide day to day living space.
22. In this regard, the communal kitchen/diner on the ground floor contains cooking facilities, worktops and storage areas sufficient for the cooking and the preparation of food. However, there is only one kitchen island in the centre of this room with 5 bar stools, and much of the island is used for the storage of items for cooking. Therefore, the kitchen/dining area, is insufficient as a 'break out' space for accommodating/seating many of the 9 occupiers of the HMO at any one time. I also observed there was currently no other inside communal lounge or sitting area provided for occupiers of the HMO to relax, which would result in the occupiers of the property spending considerable time in their own bedrooms to relax, socialise, work and eat, three of which are cramped and undersized.
23. As a result, the existing communal kitchen/dining area can only provide a seating area for only a small number of the 9 occupiers at any one time, and results in substandard level of accommodation for current/future occupiers of these HMO.

Noise and disturbance

24. The change of use of the property has resulted in an HMO with 9 bedrooms. Therefore, the HMO use comprises 9 unrelated individuals/couples living within the property, all with separate work/domestic regimes and attracting their own visitors and deliveries at different times during the day and evening. I have already found that the HMO use has resulted in a harmful effect on the living conditions of neighbouring occupiers, with regards to noise and disturbance, from the increased number of 'comings and goings,' increased vehicular and pedestrian movements and the intensified use of the property and rear garden.
25. I also note that bedroom 1 on the ground floor is situated close to the entrance of the property, and bedrooms 2 and 3 are located next to the only communal kitchen/dining room for the entire 9-bedroom HMO. In this respect, occupiers of these rooms would be most susceptible from the increased number of 'comings and goings' associated with intensified use of the property as an HMO and the single kitchen/diner used by all occupants of the HMO.
26. I therefore find that that the current unauthorised change of use results in substandard level of accommodation for current/future occupiers of the ground floor bedrooms with particular regard to noise and disturbance.

Conclusion on the living conditions for current/future occupiers of the HMO

27. Consequently, I conclude that the material change of use has resulted in a poor standard of accommodation to the detriment of the living conditions for current/future occupiers with regard to floor space and layout, and noise and disturbance, contrary to Policies H1, SP1, SP2, SP3 of the LP, Policies D6 and D14 of the London Plan, and the nationally described space standards (2015). Amongst other things these state that all developments are expected to achieve high quality of accommodation for living and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose.
28. Furthermore, the change of use is contrary to the Framework which seeks to ensure all developments creates places with a high standard of amenity for existing and future user.

Other Matters

29. Compliance with building regulations and the benefits of providing HMO accommodation for individuals/couples with a rear garden and off-street parking spaces at the front of the property are noted. However, these do not outweigh the harmful effects of the change of use outlined above and therefore do not alter my decision.

Conclusion on the Ground (a) appeal and the DPA

30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development has an unacceptably harmful impact on the supply of family dwelling houses and provides unacceptable living conditions for occupiers of the HMO and for nearby occupiers, in conflict with the development plan taken as a whole. None of the other matters raised by the appellant, as outlined above, outweighs the harms outlined above. Therefore, there

are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

31. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

Conclusion

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

R Satheesan

INSPECTOR