



Appeal Decision

Site visit made on 8 September 2026

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2026

Appeal Ref: APP/T5150/C/25/3359486

30 Randall Avenue, London NW2 7RN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Zuber Ahmed of Homes Holdings 2 Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 16 December 2024.
 - 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).
 - The requirements of the notice are to:
STEP1 Cease the use of the premises as a House in Multiple Occupation (HMO).
STEP2 Remove all internal partitions, items, materials and debris, associated with the unauthorised change of use, from the premises, including the removal of all kitchens and bathrooms that were installed as part of the change of use.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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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 1990 Act as amended.

Application for costs

2. An application for costs was made by Homes Holdings 2 Ltd against the Council of the London Borough of Brent. This application is subject of a separate decision.

Preliminary Matter

3. Since the appeal was made the revised National Planning Policy Framework (the Framework) has been published. Both main parties were invited to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and have assessed this appeal in light of the revised Framework.

The appeal on ground (c)

4. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control, with the burden of proof on the appellant to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
5. The term 'C4' refers to class C4 or the use of a dwellinghouse by not more than six residents as a house in multiple occupation (HMO), as set out in the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended (UCO). If

an HMO has more than six residents, it is 'sui generis,' meaning that it falls outside of any class. This is the allegation in this case.

6. Article 3, Schedule 2, Part 3, Class L (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets out that development consisting of the change of use of a building falling within class C3 of the schedule to the UCO to a use falling within class C4 is permitted development. However, where the number of occupiers exceeds six, such permitted development rights do not apply.
7. An Article 4 Direction came into force in the borough on 1 November 2022. The effect of which was to remove permitted development rights for the change from class C3 to C4. If the use as a class C4 HMO took place before 6 December 2019 it would have benefited from permitted development rights, after that date, express planning permission would have been required.
8. The appellant has not sought to dispute the Council's evidence regarding the number of occupiers witnessed, other than stating that the overcrowding was a result of the Council's placements. However, they argue that the use was as a C4 HMO prior to the confirmation of the Article 4 Direction and therefore there is a right of reversion to that use¹.
9. The appellant stated that they purchased the property on 3 December 2021, and it is understood that it was used as an HMO prior to their purchase. However, there is no evidence which supports that, and sales particulars submitted by the Council suggest it was a single family dwellinghouse in May 2021.
10. Nevertheless, it is possible to find that a change of use took place before a building was actually occupied. The Courts have established that too much stress has been placed on the need for "actual use." It is more appropriate to look at the matter in the round and to ask what use the building has or of what use it is. Thus, it is incorrect to regard commencement as automatically giving rise to the change of use or, conversely, to conclude that there had not been a change of use because the building was not actively occupied as a small HMO. Physical works may be relevant to the question of whether there has been a change of use but are not necessarily determinative.
11. It is necessary to look at the evidence in the round with regard to the former use of the building, the physical state of the building at the relevant date, the actual use of the building at that date, the intended use, and the whole chronology. Intended use should be considered objectively and with regard to evidence of, for example, any active marketing of the property for letting.
12. In this respect the appellant's evidence is very limited. Whilst the application for the license was for an HMO for six occupants, and it may have been laid out as a C4 HMO in October 2022, there is no evidence that it was ever occupied as such, either before or after the Article 4 Direction was confirmed.
13. The only evidence of use is from the Council's visits which demonstrates that the property was occupied by between 18-20 individuals in June 2023 and at least seven in October 2024 – as a sui generis HMO.

¹ Section 57(4) of the Act provides that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out.

14. When making an appeal on legal grounds, the burden of proof rests with the appellant. I find that the evidence is not sufficiently precise and unambiguous to show, on the balance of probabilities, that a material change of use of the property to a C4 HMO occurred before the Article 4 Direction came into force.
15. The appellant has failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no record of planning permission having been granted for it. The appeal on ground (c) fails.

The appeal on ground (a) the deemed planning application

Main issues

16. Based on the reasons given for issuing the notice, the main issues are the effect of the use on (i) the supply of family housing in the borough (ii) the living conditions of occupants with regard to the standard of accommodation (iii) the living conditions of neighbouring occupants with particular regard to noise and disturbance.

Supply of family housing

17. Policy BH10 of the Local Plan² states that development resulting in the net loss of residential dwellings will be supported only in exceptional circumstances including where it provides social or physical infrastructure to meet an identified local need which could otherwise not exist. The justification states that as identified in the SHMA and Policy BH6 Housing Size Mix, provision of family accommodation (3 bed or more dwellings) to meet Brent's needs is a priority.
18. Policy BH7 of the Local Plan sets out that proposals for student accommodation, non-self-contained or self-contained residential accommodation with shared facilities or on-site support/care to assist residents in their daily lives will be supported subject to several criteria, including where there is a demonstrable *specific Brent need* [my emphasis], or in the case of purpose-built student accommodation a London need, for the particular use.
19. It is recognised in the Local Plan, that changes in demographics, welfare and lifestyle choices mean that there will be increased demand for these types of accommodation and that these types of uses make a significant contribution to meeting local and in the case of students, London needs.
20. However, it is also stated that the cost, limited availability of housing and flexibility of development rights has resulted in many Brent homes becoming houses in multiple occupation.
21. The justification at 6.2.68 explains that Brent is an area with lower property values than some parts of London, particularly inner London. Pressure created by welfare reform and support agency budgets to reduce costs might provide drivers for relocation to Brent. For the reasons identified in relation to potential adverse factors identified above in relation to concentration, Brent is reluctant to encourage such a move. Consequently, it will seek to ensure that with the exception of students, the accommodation proposed is addressing a Brent population specific need.

² London Borough of Brent Local Plan 2019-2041 Adopted February 2022

22. Beyond generalised assertions that the property provides generous rooms for up to six individuals needing to access smaller (and proportionally more affordable) accommodation, the appellant provided no evidence to demonstrate that there is a specific Brent need for the HMO.
23. That the Council granted planning permission for an HMO elsewhere in the borough is of little weight since limited details were provided against which to enable a comparison.
24. Consequently, the development is contrary to Policies BH10 and BH7 of the Local Plan and there is no evidence before me which would justify setting the requirements of those policies aside.

Standard of accommodation

25. All of the rooms would meet the minimum room size for a double bedroom set out in the Technical housing standards – nationally described space standard and Policy D6 of the London Plan 2021 and are en-suite with modest kitchen facilities including washing machines. There are also two shared kitchens, on the ground and first floors however, neither provides somewhere to eat a meal. Moreover, there are no amenity areas, such as a lounge or dining room and in the absence of alternative amenity space, occupants would spend a reasonable amount of time in their bedrooms.
26. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice and as built. Whilst it would be possible to control the number of occupants by condition, it would not be reasonable to require an alternative layout as suggested by the appellant.
27. The lack of adequately sized, usable communal areas results in unduly restrictive living space for occupants and therefore the development does not provide acceptable living conditions, contrary to Policy DMP1 of the Local Plan which requires design that provides high levels of internal amenity.
28. There is a fairly large garden at the rear which could be used by occupants in accordance with Policy BH13 of the Local Plan and additional bin and cycle storage could be provided within the site, these matters together with a waste management plan could be secured by condition. There is no conflict with Policy DMP1 of the Local Plan or Policy T5 of the London Plan 2021 in these respects.

Living conditions of neighbours

29. As already stated, in the absence of alternative amenity space such as lounge areas, occupants would spend a reasonable amount of time in their bedrooms. The result would be a number of individuals carrying out tasks and spending time in bedrooms that would normally be associated with a ground floor living space. This is a very different pattern to that of a family, or possibly a household with a more generous and functional communal space.
30. Furthermore, the use would result in an increase in 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. Indeed, representations from a third-party highlight issues including in respect of noise and disturbance during the night and early hours of the morning, and police

presence at the property. Accordingly, the use has evidently resulted in harmful levels of noise and disturbance to neighbouring residents.

31. The appellant argued that a management plan, secured by condition, could also include measures to control instances of anti-social behaviour. However, a condition requiring the implementation of a management plan to control external noise would be unlikely to pass the relevant tests for conditions. Moreover, I do not consider that such 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.
32. Overall, 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.

Other Matters

33. Policy H12 of the London Plan 2021 relates to supported and specialised accommodation which in the absence of explanation is not relevant to the considerations in this appeal.
34. Policy BH11 of the Local Plan relates to the conversion of family sized dwellings into two or more other dwellings. I do not consider this policy is directly relevant and weighs neither for, nor against the development.

Overall conclusion on ground (a)

35. There is no evidence that the HMO has led to an over-concentration of the type of accommodation in the area. However, this does not outweigh the conflict with policies DMP1, BH7 and BH10 of the Local Plan in respect of the loss of family housing and the harm to the living conditions of occupants and neighbours.
36. The Framework states that decisions on development proposals should apply a presumption in favour of sustainable development. Within settlements, development should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the Framework's national decision-making policies.
37. The development would provide a greater choice of housing types and make efficient use of existing housing stock. However, notwithstanding the appellant's assertions, it is evident that with a Public Transport Accessibility Level of 2 (poor) the site has poor access to the public transport network.
38. Moreover, the development has resulted in the harmful loss of a family home. This is contrary to the Framework's principles for the creation of well-designed places by supporting healthy, mixed, vibrant, and integrated communities, which will function well over the lifetime of the development, by incorporating a range of uses and tenures, employing features which promote social interaction. Furthermore, the Framework states that development proposals should be refused if they conflict with these principles.
39. I attach substantial weight to this harm and find the benefits of granting planning permission would be substantially outweighed by adverse effects, when assessed against the national decision-making policies of the Framework.

40. Consequently, the use as an HMO, is contrary to the development plan when taken as a whole, and there are no material considerations which indicate that the appeal should be determined other than in accordance with it. The appeal on ground (a) fails.

The appeal on ground (f)

41. 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.
42. The purpose of the notice is to remedy the breach of planning control. It is sufficient, in order to achieve that purpose, to require a building to be restored to its condition before the development took place, since the landowner is generally best placed to know what the condition was – which is in effect what the notice requires. The cessation of the use and removal of fixtures including partitions, bathrooms and kitchens which have facilitated the use, is consistent with its purpose.
43. The appellant's case is essentially that they do not know what the former condition of the property was, as it was already in use as an HMO when they purchased it. They suggested a lesser step to be the removal of all kitchen facilities from bedrooms and two of the bathrooms within the ground floor of the building.
44. However, whilst I understand the appellant's case, the requirements do no more than seek to achieve the purpose of the notice and are not excessive.
45. The appeal on ground (f) fails.

The appeal on ground (g)

46. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggested a period of 12 months based on the need to secure vacant possession of the property and to carry out the required works. The appellant also referred to the Council having served enforcement notices in respect of two other properties under the same ownership/management.
47. I am mindful that the property is occupied, and that compliance with the requirements of the enforcement notice would, at the very least, represent a significant inconvenience to the tenants. However, I have no substantive details of the terms of the tenancies held by any current occupants, particularly in relation to matters such as the notice periods required by either side. Nor do I have details regarding the periods associated with the other enforcement notices.
48. I cannot therefore be certain, that a period longer than six months is necessary to secure compliance with the notice, or that the period of six months specified in the notice is not proportionate to the breach of planning control that has occurred.
49. Additionally, the Council also referred to their powers under section 173A(1)(b) to extend any period for compliance, if necessary, a matter which is entirely at their discretion, without prejudicing their right to take further action.
50. Accordingly, the appeal on ground (g) fails.

Conclusion

51. For the reasons given above, I conclude that the appeal 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).

Felicity Thompson

INSPECTOR