



Appeal Decisions

Site visit made on 8 December 2025

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP
an Inspector appointed by the Secretary of State

Decision date: 17 December 2025

Appeal A: Ref APP/B5480/C/24/3357877 **16 Woburn Avenue, Hornchurch RM12 4NG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Volodymyr Kens against an enforcement notice issued by the Council of the London Borough of Havering on 22 November 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of a dwelling (C3) to a house in multiple occupation (C4).
 - The requirements of the notice are to: (i) CEASE the use of the property as a house in multiple occupation; AND (ii) Remove all debris, rubbish or other materials accumulated as a result of taking step (i) above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (c) (f) (g) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Appeal B: Ref APP/B5480/W/24/3351621 **16 Woburn Avenue, Hornchurch, Havering RM12 4NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr V Kens against the decision of the Council of the London Borough of Havering.
 - The application Ref P0909.24, dated 26 June 2024, was refused by notice dated 23 August 2024.
 - The development is single storey rear extension and part first floor rear extension.
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Appeal C: Ref APP/B5480/W/24/3354601 **16C Woburn Avenue, Hornchurch RM12 4NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr V Kens against the decision of the Council of the London Borough of Havering.
 - The application Ref P0821.24, dated 10 June 2024, was refused by notice dated 15 October 2024.
 - The development is described in the application as a loft conversion with a rear dormer.
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Decisions

1. It is directed that the enforcement notice in Appeal A be varied by deleting step (ii) of the requirements in section 5. Subject to this variation, due to success to this extent on ground (f), Appeal A is otherwise dismissed and the notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

2. Appeal B is dismissed.
3. Appeal C is dismissed.

Appeal A

Ground (c)

4. For success on this ground, I must be satisfied on the balance of probabilities that matters stated in the notice do not constitute a breach of planning control.
5. The appellant says that, while the property is in use as a house in multiple occupation (HMO), there has not been a *material* change of use that amounts to development for the purposes of section 55 of the Act.
6. The character of the lawful use before the development was as a small family/single household home, being less than 120m² for the purposes of Policy 8 of the Havering Local Plan 2016-2031 (LP)¹. The character of the use after development pertains to the same dwelling multiply occupied by several households sharing facilities which, as a matter of fact and degree, has resulted in a much more intense form of residential occupation - as demonstrated by the fact that on my site visit the living room² was apparently in use as a bedroom, as was a first floor room which is only 6.8m² in area³ and which I found to be cramped and oppressive.
7. Accordingly, I find that there has been a material change in the character of use which is development requiring planning permission. As there is no express permission in place, and also noting the relevant Article 4 Direction, I find that there has been a breach of planning control. Ground (c) does not succeed.

Ground (a) and the deemed planning application (DPA)

Main Issues

8. The main issues in the DPA are the effects of the development on:
 - the supply of family housing in the Borough;
 - the living conditions of adjoining residents through noise and disturbance;
 - the living conditions of occupants of the HMO; and
 - parking provision.

Reasons

Supply of family housing

9. Policy 8(i) of the LP requires that the overall size of the original property to be converted to an HMO should be not less than 120m². It would seem that the reason for that requirement is to seek to deliver residential conversions of larger properties while maintaining a supply of small family homes for which there is a strategic need (Outer North East London Strategic Housing Market Assessment – SHMA).

¹ Notwithstanding how many rooms were potentially available as bedrooms for the family/single household.

² As marked on Drawing No JND/1390/10 dated June 2024 associated with Appeal B.

³ Below Policy 8(vii) requirements.

10. The appellant accepts that the development has resulted in the loss of a family-sized unit (albeit stating that the SHMA only indicated limited need for properties with 5 or more bedrooms such as the appeal property), and doesn't dispute the Council's assessment that the size of the original property fell below the 120m² threshold significantly in possessing a Gross Internal Area (GIA) of no more than 100m².
11. Accordingly, I find that the appeal development results in the loss of a unit of small family-sized housing in the Borough for which there is a particular identified need. Notwithstanding how many of the small home's rooms had been in use as bedrooms before the HMO use, it clearly had the GIA of a small family home of which the strategic need arises. As such, the development is in conflict with Policy 8(i) of the LP which seeks to protect the supply of small family homes from loss due to HMO conversions.

Noise and disturbance

12. I have seen very limited evidence submitted into this appeal to support a case that the HMO use causes material levels of noise and disturbance in an area which I found on my site visit to experience noise from trains and train announcements associated with the adjacent Elm Park Underground Station. Accordingly, on the basis of the available evidence, I find that the development is not in conflict with Policies 8 and 34 of the LP which seek to prevent adverse impacts through noise and disturbance.

Living conditions

13. The first floor central front bedroom (only 6.8m² in area) is cramped and oppressive (notwithstanding its single aspect window) and is somewhat below the minimum requirement of 8.5m² required by Policy 8(vii) of the LP through the standards contained in the East London HMO Guidance. Even if I found the room size acceptable for sleeping accommodation, which I do not, the appellant's argument that the occupant might additionally make use of the communal living room (required by Policy 8) to achieve more space is nullified by that room apparently also being used as sleeping accommodation (as observed on my site visit). Neither do the existence of outside spaces materially mitigate the significant harm to living conditions. All in all, the intensity of occupation in a fairly small residential dwelling (and taking into account the above mentioned room-size issue) creates a crowded, cramped living environment which I would not consider conducive to health and wellbeing. As such, the appeal development is in conflict with Policy 8 of the LP which seeks to ensure acceptable HMO living and space standards.

Parking

14. In essence, the Council is concerned that the 2 off-street parking spaces provided are inadequate and that on-street overspill will create local parking stress. The appellant on the other hand reasonably points out that the site is within a relatively accessible area, close to public transport infrastructure. Elm Park Station is around a 5 minute walk away and there are bus stops along Elm Park Avenue (around a 2 minute walk away). Shops and services are also a short distance away (around a 6 minute walk) accessed along streets with active frontages. As such, many (if not all) services and facilities required for day-to-day living (as well as employment opportunities) can be readily accessed on foot and by public transport.

15. Havering's parking requirements are set out in Policy 24 of the LP. Since the appeal site has a higher public transport accessibility level (PTAL 3) than that considered to be low (PTAL 0-1), the minimum parking standards in Table 12 do not apply. That in itself points away from the Council's concerns – the residents in the appeal before me have better access to public transport than the residents of dwellings subject to those standards and are accordingly less likely to possess a vehicle. Further, and significantly, the policy requires that London Plan maximum standards apply. Policy T6 of the London Plan 2021 (LONP) says that new residential development should not exceed certain maximum parking standards: in respect to a 3+ bed property in an Outer London PTAL 3 area, that is up to 1 space per dwelling.
16. Accordingly, I find parking provision not to be under-provided and that the appeal development does not have an unacceptable impact on parking stress in the area. As such, there is no conflict in that regard with Policies 8 or 24 of the LP or with Policy T6 of the LONP. Nor do I find any conflict in these regards with the National Planning Policy Framework (the Framework).

Other Matters, Planning Balance and Ground (a) Conclusion

17. HMOs play an important role in meeting particular housing needs, especially for low income residents, for young people and for those needing temporary accommodation. There is no doubt a benefit in providing this type of relatively affordable accommodation (in a sustainable location with good access), and I give that consideration moderate weight. However, it does not outweigh the significant harm and policy conflict the development causes by reducing the supply of small family-sized housing by the creation of sub-standard HMO accommodation in this case.
18. The development does not accord with the development plan as a whole, and there are no other considerations which outweigh that finding.
19. The appellant has suggested that I permit the property's use as a 5 person HMO through the imposition of an appropriate condition. While I acknowledge that might make the living conditions more acceptable, it would not in my view make the development acceptable overall due to the inappropriate loss of a small family-sized home which the Borough strategically needs.
20. Accordingly, and as there are no other conditions which would make the development acceptable, I will not grant planning permission on the deemed application and ground (a) does not succeed.
21. Article 8 of the First Protocol to the European Convention on Human Rights, as incorporated into the Human Rights Act 1998, is engaged due to the potential loss of homes for the appeal property's occupiers due to conflict with planning policies. Therefore, I have undertaken a proportionality assessment and considered whether the objectives of the planning policies could be met by a less intrusive action. However, the policies seek to protect the supply of needed small family-sized housing and to protect the living standards of HMO residents – those objectives cannot otherwise be achieved other than ensuring that planning permission is refused. The implementation of the policies in respect to the appeal site would not be excessive or disproportionate taking all into account.

Ground (f)

22. For success on this ground, I must be satisfied that the notice requirements are excessive in achieving its purpose. It seems to me from the way the notice is drafted that its purpose is to remedy the breach of planning control by requiring the unauthorised use to cease (achieved through step (i)).
23. I find that step (ii) is excessive (and it would seem, unnecessary) as simply stopping the way the property is occupied should not result in the accumulation of debris, rubbish or other materials. I am thereby using my powers to remove that step from the notice, and ground (f) succeeds to that extent.
24. I have dealt already above in my reasoning on ground (a) why I have rejected the appellant's suggestion that a 5 person HMO be permitted. In any event, such a lesser requirement would not remedy the breach of planning control. Ground (f) accordingly does not succeed on that point.

Ground (g)

25. For success on this ground, I must be satisfied that the 3 month compliance period of the notice falls short of reasonable.
26. The appellant requires 12 months to notify the current tenants and allow them a reasonable length of time to find suitable accommodation that is affordable and within a similarly accessible location. However, I have seen very limited evidence to support the basis for that request and it seems to me that 3 months is reasonable and proportionate in all the circumstances of which I have been made aware.
27. Accordingly, ground (g) does not succeed.

Appeal B

Main Issues

28. The main issues are the effect of the development on:

- The character and appearance of the host property and area; and
- The living conditions of the future occupants of 16C Woburn Avenue (No 16C - an attached new dwelling implemented under Ref P0960.22 but not yet occupied).

Reasons

Character and appearance

29. The extension at first floor level would project 3m from the existing rear elevation of the appeal property and would be approximately 5.37m in width.
30. These dimensions, and particularly the width (in the context of the width of the appeal property as a whole), would create an extension in total⁴ which was excessive in bulk. As a result, it would appear as a dominant feature which was not subservient to the host building. The addition of unacceptable bulk at first floor level would be particularly visual and overbearing when appreciated in the context of the rear of the terrace.

⁴ The width of the ground floor element of extension being approximately 6m.

31. Accordingly, the development would cause significant harm to character and appearance and would be in conflict with Policy 26 of the LP which seeks to promote high quality design.

Living conditions

32. The first floor extension would be built on the margins of the boundary with No 16C. The first floor single-aspect window of that property's bedroom would look out upon the flank wall of the development which projects 3m rearwards.
33. The result would be an unacceptable effect on outlook, causing a sense of oppressive enclosure to the user of the bedroom at 16C (the main bedroom) notwithstanding other external views possible from the window down the garden of the end-of-terrace property. This harm is significant, irrespective that it may only affect the amenity of those using the bedroom, and as such is in conflict with Policy 7 of the LP which seeks to protect the amenity of existing and future residents.

Conclusion

34. The appeal scheme does not accord with the development plan as a whole, and there are no other considerations (including the sustainability of the location) which outweigh that finding. There are no conditions which would make the development acceptable. I shall not grant planning permission in respect to it.

Appeal C

Procedural Matter

35. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises "*Proposed three bedroom attached dwelling (alterations to dwelling approved under Ref P0960.22)*". The Council dealt with the proposal on this basis and so shall I.

Main Issues

36. The main issues are the effect of the development on:

- The character and appearance of the terrace of houses and local area; and
- The living conditions of future occupants of the appeal property, particularly as regards space.

Reasons

Character and appearance

37. Although I acknowledge that there are local examples of varied roof-form, the proposed gabled end and relatively large dormer⁵ would add dominant features and a significant perception of bulk to the roofline of the terrace which would unbalance it and cause harmful visual incongruity.
38. I do not accept that there would be sufficient mitigation of these effects through any diminishment of views caused by reason of screening, orientation or location.

⁵ Covering nearly all of the rear roof slope, notwithstanding slight setbacks from the edges.

39. While I have taken into account that (limited) 'hip to gable' roof extensions involving dormers are of course possible under permitted development rights, I observed on my site visit that the structure partially constructed pursuant to Ref P0960.22 did not have the roof built-out in accordance with the approved plans. Accordingly, it has not been substantially completed as a dwellinghouse (as approved) and the mentioned permitted development rights do not apply. In any case, I have assessed the proposal on its merits.
40. For these reasons, I find that the proposed development would cause significant harm to the character and appearance of the terrace of houses and local area. As such it would be in conflict with Policy 26 of the LP, which seeks to ensure high quality design.

Living conditions

41. Policy D6 of the London Plan 2021 (LONP) says that housing developments should be of a high quality design and provide adequately sized rooms. To that end they are required to meet **minimum** standards. Applying those standards, the appellant seems to agree that the minimum Gross Internal Area (GIA) should be at least 99m² and that the development would be at least 8m² below that minimum threshold. That would not provide ample living and circulation space, nor provide spacious rooms (particularly not the first floor front bedroom, which would be below the minimum permitted bedroom size⁶).
42. Taken together with reduced ceiling heights, also failing the D6 Policy minimum requirements⁷, the result would be an oppressive and cramped residential development which would be wholly unacceptable. Restricting the smallest bedroom to a study would not adequately mitigate the harm, as it would not change the percentage of low ceiling heights across the dwelling as a whole which would still create a sense of undue enclosure. Further, D6 states that this minimum requirement is in place to ensure that housing is of adequate quality, especially in terms of daylight penetration, ventilation and cooling, and sense of space. The appeal scheme, with or without the third bedroom used as such, would not achieve this.
43. I place limited weight on the appellant's argument that a similarly harmful situation might be possible through internal alterations to create bedrooms (outside of the definition of 'development' under the Act) following the exercise of permitted development rights to create a roof extension (once the dwellinghouse approved under Ref P0960.22 was substantially completed). That scenario would also produce unsatisfactory and unhealthy housing, and it does not persuade me to give planning permission for the sub-standard housing in the scheme before me.
44. For these reasons, the development would cause significant harm to the living conditions of the occupants of the property. As such, it would be in conflict with Policy D6 of the LONP and Policy 7 of the LP which together seek to protect housing quality and standards. The development would also be in conflict with paragraph 135 of the Framework which says that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

⁶ Whatever the size of its window.

⁷ The loft floor having a 2.1m ceiling height and with the dwelling as a whole falling below the minimum requirement for 75% of the GIA to be at least 2.5m as regards ceiling height.

Planning Balance and Conclusion

45. The housing supply and delivery policies of the development plan are out-of-date with the Framework, since the Council cannot demonstrate a 5-year housing land supply and it is underperforming on housing delivery.
46. The appeal scheme does not have an impact on protected areas or assets listed in footnote 7 of the Framework and therefore, the tilted balance in Paragraph 11d)ii. is engaged as an important material consideration. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
47. The delivery of a single 3-bedroom home (on a previously developed small site in a reasonably sustainable location) is a moderate benefit of the appeal scheme given the Framework's policies on boosting the supply of housing in the context of a shortfall (and particularly on brownfield land, and particularly in sustainable locations). Modest economic benefits would also accrue from construction and employment.
48. However, the appeal scheme would cause significant harm to local character and appearance and to the living conditions of future occupiers. This is contrary to the Framework's policies in these regards, particularly paragraphs 129 and 135. Overall, the adverse impacts of the development are of a magnitude which weigh heavily against the grant of planning permission.
49. Consequently, the adverse impacts of the appeal scheme significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. This does not indicate that planning permission should be granted.
50. The appeal development does not accord with the development plan as a whole, and there are no other considerations which outweigh this finding. There are no conditions I could reasonably impose (suggested or otherwise) to make it acceptable. Accordingly, I will not grant planning permission.

Conclusions

51. For the reasons given above, Appeal A does not succeed other than to the limited extent indicated on ground (f). The notice is varied and upheld. I shall not grant planning permission as regards the deemed planning application.
52. For the reasons given above, Appeal B is dismissed.
53. For the reasons given above, Appeal C is dismissed.

Andrew Walker

INSPECTOR