



Appeal Decision

Site visit made on 3 July 2025

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

Appeal Ref: APP/T5150/W/24/3356539

165 Dudden Hill Lane, Brent, London NW10 1AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Moishe Lipshits against the decision of the Council of the London Borough of Brent.
- The application Ref is 24/2590.
- The development proposed was originally described as “Erection of a ground floor extension, first-floor extension and dormer extension, and conversion from small HMO to large HMO.”

Decision

1. The appeal is allowed and planning permission is granted for conversion of property to large 8 bed/8 person HMO with demolition of existing ground floor rear extension, erection of single storey rear extension, first floor rear extension, hip to gable roof extension, rear dormer, x1 front rooflight and insertion of door and windows to side elevation to ground floor at 165 Dudden Hill Lane, Brent, London NW10 1AU in accordance with the terms of the application, Ref 24/2590, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Moishe Lipshits against the Council of the London Borough of Brent. This is the subject of a separate decision.

Preliminary Matters

3. During my visit to the appeal site, I was able to access the front yard, rear garden and a side access route. I was also able to access some foyer and hall areas at both ground and first floor, accommodation identified on the proposed plans as bedroom 03 and a ground floor kitchen. Access was unavailable to other accommodation.
4. On site, some accommodation within the property which I had access to did not match either the existing or the proposed floorplans. For example, whilst at ground floor level a kitchen is centrally positioned, its extent and access arrangements do not match the kitchen-communal space shown on the proposed floorplans. The door providing access from the ground floor to the pathway between the side of the host property and 163 Dudden Hill Lane was not in place. At first floor level, though I had only access to a hallway, all doors were marked by bedroom numbers indicating that there was not a kitchen.
5. However, I am satisfied that my site visit was sufficient to enable me to determine the appeal and, for the avoidance of doubt, my decision is based upon the plans submitted and not the accommodation I partly inspected on site.

6. Amongst the evidence before me, the Council have made submissions which query the appellant's assertions that the host property is, lawfully, a small House in Multiple Occupation (HMO). Within the context of an appeal under section 78 of the Town and Country Planning Act 1990 (the Act), it is not within my remit to formally determine whether use of the property as a small HMO requires planning permission. To ascertain whether such use is lawful, an application under section 191 of the Act could be made.
7. The appeal site is located within an area the subject of an Article 4 Direction. This means that planning permission is required for the change of use of a property to a Use Class C4 HMO. The Council's Houses in Multiple Occupation Supplementary Planning Document (the HMO SPD) suggests to me that this has been in effect since November 2022. The evidence before me indicates that the property is a licensed HMO under a separate licensing regime. However, I do not know how long the property has had this licence and whether it has been obtained since the Article 4 Direction has been in force. In such circumstances, though the use of the property as a small HMO may be lawful, I am certainly not confident that it is. As necessary I return to this matter later in my decision.
8. The description of the development proposed in my banner heading above is taken from the planning application form. On the appeal form the appellant has used a different description wording, one which matches that on the Council's decision. The description given on the appeal form more accurately describes the entirety of the development proposed and, furthermore, it omits reference to the existing property being a small HMO which I am not confident is the property's lawful use. In the circumstances, in my decision, I have used the description given on the appeal form.

Main Issues

9. The main issues are:
 - The effects of the proposed development upon the character and appearance of the area and the host property;
 - Whether appropriate living conditions would be provided for the future occupiers of the proposed development with specific reference to their internal space;
 - Whether the proposed development would be the subject of suitable management arrangements;
 - The effects of the proposed development upon trees; and
 - Whether the need for the proposed development has been adequately demonstrated.

Reasons

Character and appearance

10. No 165 Dudden Hill Lane (No 165) is a semi-detached residential property located within an area which is predominantly residential in character. No 165 is traditionally designed, as are many other properties in the area. It has a flat-roofed,

single-storey extension to its rear, but otherwise it is served by hipped roof slopes. This includes a hipped feature projection on the front elevation. It is a characteristic of the area that roofscapes are varied and quite complex. Like the host property, many properties in the area are served by different roof profiles, and the likes of roof hips, gable-ends and flat-roofed dormers are all common features.

11. Given that the Council's relevant refusal reason (reason 1) specifically refers to it, and, given the content of its other appeal submissions, it is clear that the Council's objections to the design and visual effects of the various extensions and alterations proposed are focused upon the two-storey rear extension. In turn, I too focus upon that element of the proposal.
12. With a width of approximately 3 metres (m), a depth of around 2.5m and a roof ridge which would terminate only a little above eaves level, the two-storey rear extension would be quite modestly scaled. The proposed two-storey extension's proportions and its incorporation of a hipped roof means that its design would be reflective of the hipped feature projection presently on the front elevation and, indeed, of other feature projections in the area.
13. The proposed two-storey rear extension would be visible from Sonia Gardens but, given its scale and proportions, it would appear as a subservient feature at the back of the property rather than a dominant one. In the same views, the two-storey extension would be seen in conjunction with the proposed hip-to-gable roof extension and the rear dormer. The proposal would result in a junction point whereby the two-storey rear extension would join the rear dormer, but the design detail shown on the plans is not a clumsy one.
14. Overall, upon completion of the proposed development, the host property would exhibit different roof profiles and a quite complex roofscape and, I am mindful of the content of the Council's Residential Extensions and Alterations Supplementary Planning Document which, amongst other guidance, seeks consistency of roof form. However, in this case, the roofscape's complexity would not be out of character with the area or harmful within its context. Rather, it would provide another example of the roofscape diversity which typifies the surroundings of the appeal site.
15. Furthermore, the evidence before me demonstrates that a dormer and hip-to-gable extension akin to that proposed could, lawfully, be undertaken as permitted development¹. Therefore, irrespective of the outcome of this appeal, I consider there to be a very real prospect that the dormer and hip-to-gable extension could be implemented with its consequential effects upon the character and appearance of the area and the host property. This adds some further weight to the reasons why the proposed development would be acceptable in character and appearance terms, but, given my findings above, it is not a critical factor.
16. Therefore, and for the reasons I have given, I find that the effects of the proposed development upon the character and appearance of the area and the host property would be acceptable. Consequently, the proposed development accords with Policy DMP1 of the Brent Local Plan 2019-2041 (the BLP) which, as well as other matters, requires developments to be of a type, design, scale and layout that are complementary to the locality.

¹ Granted Certificate of Lawfulness Ref 24/1793

Living conditions

17. The Technical Housing Standards – Nationally Described Space Standard (the NDSS) sets out requirements for the internal floor area of new dwellings and dimensions for key parts of new homes. In order for the NDSS to be applied to development proposals there needs to be a relevant development plan policy.
18. Policy D6 of the London Plan 2021, (the LP) requires housing development to be of high quality, which, amongst other matters, meet its minimum space and room size requirements, requirements which are strongly correlated with the NDSS. LP Policy D6 sets out that its minimum standards apply to residential accommodation that is self-contained. The 8-person HMO proposed in this case would incorporate some shared facilities and, thereby, the accommodation to be provided would be non-self-contained. Ordinarily this would mean that all the minimum standards of Policy D6 are not relevant in this case, although I see no reason why Policy D6's more general quality requirements would not be.
19. However, Policy BH7 of the BLP requires residential accommodation with shared facilities, such as an HMO, to be of an acceptable quality, meeting appropriate standards for the needs of its occupants. The HMO SPD provides guidance in support of development plan policy and assists in the interpretation of Policy BH7. In seeking to ensure that HMO developments meet Policy BH7's quality and standard requirements, the HMO SPD contains its own prescriptive guidance on accommodation layout and rooms sizes. Part of this prescriptive guidance adopts as its own some LP Policy D6 requirements in terms of bedroom sizes. This includes that to constitute useable floorspace, floor to ceiling heights within bedrooms have to be above 1.5m.
20. Finally, a further relevant policy steer is provided by BLP Policy DMP1 which also requires development proposals to provide high levels of internal amenity.
21. The expectations of the HMO SPD for an 8-person HMO are 40m² of internal communal amenity space including kitchen space amounting to 11m². Set against this, the plans show that the property would be served by a ground floor kitchen+communal space of 29.02m², a kitchen at first floor level of 7.51m² and a third kitchen within the loft of 8.48m². Altogether, this accommodation would amount to approximately 45m² of space for communal and kitchen purposes.
22. The Council object to the ceiling height of the proposed kitchen at loft level. However, the HMO SPD guidance on ceiling heights, including that adopted from Policy D6 of the LP, specifically relates to bedrooms. It does not relate to kitchens.
23. The floorplans show, and the appellant submits, that roughly half of the kitchen would have a ceiling height of at least 2.14m with much of the rest at least 1.8m in height. I have been provided with no compelling evidence from the Council which counters the appellant's submissions, or which demonstrates to me that the ceiling height of the kitchen would be lower. No ceiling height standard within the HMO SPD would be breached, and I find that the proposed loft level kitchen would be a useable space.
24. The plans show that the ground floor kitchen+communal space would be served by two 8 kilogram washing machines, two sinks and drainers, a double refrigerator and a hob. The other two kitchens proposed show other hobs and sinks and, altogether, the various kitchens proposed are of a size and layout that suggest to

me that the array of the HMO SPD's kitchen and utility related facilities could be adequately catered for within the development. Although the particular table shown on the plans within the kitchen+communal space only has 6 seats around it, the room shown is of a size and layout that a larger table with 8 seats could be provided.

25. Therefore, I find that the kitchen and communal accommodation proposed would meet applicable standards in terms of both room size and facility provision. The Council has not set out to me that other internal spaces within the proposed development, such as bedrooms, would be deficient, and I have no reason to disagree.
26. Consequently, appropriate living conditions would be provided for the future occupiers of the proposed development with specific reference to their internal space. The proposed development would, therefore, comply with LP Policy D6 and Policies DMP1 and BH7 of the BLP.

Management

27. Criterion c) of BLP Policy BH7 requires HMO developments to include suitable management arrangements. The guidance of the HMO SPD builds upon this, setting out that a combination of tenancy and property management measures be deployed. That the HMO SPD states that management submissions should, ideally, accompany the application indicates to me that resolving such matters via the imposition of a condition would, at least in certain cases, be appropriate.
28. The submitted HMO Management Plan² outlines a range of tenancy and property management measures which would assist with the proposal's assimilation into the area and reduce the prospect of the development giving rise to the likes of problematic noise, accumulation of waste or garden neglect. That said, the HMO Management Plan lacks some details. This includes an absence of confirmation of who would oversee management whilst the visitor policy referenced within it is unclear.
29. In its present form, I consider that the HMO Management Plan is not precise enough. However, through the imposition of a condition I also consider that an improved and refined final version of it could be devised. With the inclusion of such a condition, I find that the proposed development would comply with BLP Policy BH7 and that the proposal would be the subject of suitable management arrangements.

Trees

30. Amongst its content, Policy BG12 of the BLP requires the submission of a tree survey where development could affect trees and seeks the replacement of them should development result in their loss. BLP Policy DMP1 sets out that high amenity trees and landscape features should be retained and, similarly, Policy G7 of the LP sets out that development proposals should ensure, wherever possible, that existing trees of value are retained and that, if removal is necessary, they should be replaced.
31. At the rear of the property, on the boundary with 163 Dudden Hill Lane, there is a tree. It is not an especially tall specimen, but its canopy spread is quite extensive.

² Redwoods HMO Management Plan dated 15/10/2024

As well as being visible from neighbouring property, the tree can be seen when travelling along Sonia Gardens, and there are glimpsed views of it from Dudden Hill Lane itself.

32. The proposed extensions at the rear of the host property would stop short of both the tree's trunk and canopy spread. However, the extensions would come quite close to it, and there is the potential for the proposed development to affect it. Most likely the proximity of the extensions to it could result in the likes of damaged roots, compacted soil or the need to cut the tree back in order for there to be space for the likes of scaffolding or materials.
33. Since affects upon the tree as a result of the proposal could result, the absence of a tree survey means that the proposal conflicts with Policy BG12.
34. Despite this, it is not clear to me that the development would result in either the loss of the tree or any effects upon it that would seriously undermine its health. With precautions, it seems to me that the tree could well endure long after the development. That said, and in the absence of a tree report undertaken by someone with appropriate expertise, I must also consider that the opposite could result, and the development activities could result in the tree being irreparably harmed or lost.
35. However, the result of such a worst-case scenario would be the loss of a relatively modest tree, which, whilst publicly visible, is not prominent and provides only a limited positive contribution to the character and appearance of the area. It may have some other environmental benefits too, such as some habitat, but I have no substantive evidence before me which leads me to the conclusion its value in any respect is a high one.
36. A condition can be imposed requiring the provision of tree protection measures and replacement planting in the event that the tree be lost. In my view, on the basis of all that is before me and my own observations on site, this would be a proportionate approach given the tree's contribution to the area and the likelihood of the development proposed affecting it. Such an approach would ensure compliance with BLP Policy DMP1 and LP Policy G7, although the conflict with Policy BG12 of the BLP remains. However, for the reasons I have given, I consider that the effects of the proposed development upon trees would be acceptable, despite there being some risk to the aforementioned tree and the absence of a tree survey.

Need

37. Criterion d) of BLP Policy BH7 requires HMO proposals to demonstrate a specific need for such a use within Brent. I am very mindful that the HMO SPD supports the implementation of BH7. It sets out that HMO developments perform an important part in housing people within Brent and that they are especially beneficial to those unable to afford self-contained homes. The HMO SPD further sets out that although the need for HMO developments would, ideally, be limited by a plentiful supply of affordable self-contained homes, this ideal position does not subsist. Consequently, where HMO developments would meet non-specialised needs, the HMO SPD guides that those developments are not expected to demonstrate need. I have no reason to conclude that the HMO proposed in this case would be specialised.

38. Nevertheless, HMO accommodation competes with family housing which the HMO SPD sets out is also a significant need within Brent. Earlier in my decision, I established that any existing use of the property as a small HMO could well be unlawful. The loss of a Use Class C3 dwellinghouse suitable for families could, therefore, arise from the proposal.
39. The HMO SPD cites the need to balance these competing needs and that the balance would be more likely to tilt in favour of retaining the premises as a dwelling suitable for families if the quality of the HMO accommodation was not sufficiently high. However, in this particular case, in my second and third main issues, I have identified that the internal accommodation and the proposal's management would be acceptable. Coupled with my findings that no harm would be caused to the character or appearance of the area or the host property, I conclude that the proposed development would constitute an HMO of sufficiently high quality.
40. Furthermore, the Council has not provided me with any compelling evidence that the HMO proposed is not needed, nor that retaining the property as the C3 dwellinghouse it lawfully may well be, is the greater need. For these reasons, and with the interpretative guidance of the HMO SPD in mind, I conclude that the need for the proposed development has been adequately demonstrated, and it complies with the aforementioned Policy BH7 in these regards. I also find that the proposal complies with BLP Policy BH10 which seeks to resist the loss of housing. This is because a form of residential accommodation would be retained as a result of the proposal and, furthermore, one which itself would be meeting a local need.

Other Matters

41. Both the main appeal parties refer to an appeal decision in Enfield³. However, some different development plan policies and supplementary guidance apply to the appeal before me than would have been the case in the Enfield appeal. The size of the HMO accommodation involved in each development also differs. Such factors distinguish the Enfield case from the proposal before me. Consequently, it is of limited weight and is not a decisive factor in my determination.
42. I note that the Council's officer report raises concern with the access arrangements to the rear garden, asserting as a part of this that the route to the garden via the proposed side elevation door would involve a route which is not within the demise of the host property. Further concern is expressed that the scheme submissions have not adequately demonstrated that the proposal would be served by appropriate water infrastructure and water management measures and provisions.
43. However, none of the Council's reasons for refusal reflect or articulate these concerns and, it is not clear to me that the Council's concerns in these respects are very strong. Moreover, I have no compelling evidence that the occupiers of the proposed development would not have the right to use the pathway beside the side elevation. Neither have the Council supported its concerns regarding water infrastructure and water management with substantive evidence or the supply of any development plan policies which guide requirements in these regards. As a result, these are matters of little weight in my determination.

³ Appeal Decision Ref APP/Q5300/W/22/3306709

44. I note the concern raised by an interested party regarding the potential for the property to be occupied by delivery drivers/riders, but I have no substantive evidence that this would be the case or that any problematic motorbike parking would arise. I also have no reason to conclude that the proposed en-suite rooms would not be appropriately drained.

Conditions

45. The Council has not provided a full schedule of suggested conditions. In the circumstances, I have compiled a suite of conditions informed by the evidence before me and in the light of the tests for the imposition of conditions set out within the National Planning Policy Framework and the content of the Planning Practice Guidance.
46. Condition 1 sets out the standard time limitation. Condition 2 is necessary to ensure that the proposed development is carried out in accordance with the approved plans for the reason of certainty.
47. In the interests of the character and appearance of the area, the preservation of trees and provision of appropriate landscaping, I have imposed conditions 3, 5, 6 and 9. To ensure that the occupancy of the property is defined and controlled and that suitable management measures are deployed in the interests of the living conditions of the local residents, I have imposed conditions 7 and 10.
48. To promote sustainable transport modes and to secure essential waste infrastructure to support the functioning of the property, condition 8 is necessary. Finally, the content of the HMO SPD, and that of the consultation response from the highway authority, sets out that the proposed development should be car-free. I have no reason to disagree and consider it necessary in the interests of promoting sustainable transport and managing parking demand in the area. Streets within the surroundings to the appeal site are governed by a Controlled Parking Zone. This means that, subject to a suitable mechanism being used, the proposal could be implemented effectively as a car-free development. Whilst the Council suggested alternative wording, my condition 4 is a negatively worded, pre-commencement condition which would permit time for a scheme or agreement to be devised and implemented. It provides the suitable mechanism required, and I am satisfied that its particular wording would be enforceable.

Conclusion

49. Within one of my main issues, I have identified conflict with a single policy within the development plan: Policy BG12 of the BLP. However, the proposal accords with a host of other relevant development plan policies, and it is acceptable in regard to all five of my main issues. Therefore, overall, I find that the proposal accords with the development plan taken as a whole. There are no material considerations which indicate a decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be allowed subject to the conditions in the attached schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings:

Location Plan
Location & Block Plan E00
Proposed Drawings Floor Plans P01
Proposed Drawings Floor Plans P02
Proposed Drawings Elevations P03
Proposed Drawings Elevations P04
Proposed Drawings Elevations P05
Proposed Drawings Sections P06
Proposed Drawings Block Plan P07
Proposed Drawings Landscaping P08
Proposed Drawings Details P09
- 3) No demolition, construction, site clearance, preparatory work or other development shall take place until a scheme for the protection of trees on site (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. Thereafter, the trees shall be protected in accordance with the approved details until the cessation of the development works hereby permitted.
- 4) No development shall take place until arrangements have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have first been submitted to, and approved in writing by, the local planning authority. The approved scheme or agreement shall ensure that:
 - i. no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - ii. any occupiers of the approved development shall surrender any such permit wrongly issued or held. Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
- 5) All the hard and soft landscaping proposals, as identified on drawing P08, shall be implemented before the occupancy of the property with the HMO use hereby permitted takes place.

- 6) If, within a period of 2 years from the completion of the development hereby permitted, any trees or plants, implemented as part of the landscaping scheme the subject of condition 4 and protected via the imposition of condition 3, die, are removed or become seriously damaged, they shall be replaced in the next planting season in accordance with a planting scheme to be first submitted to, and approved in writing by, the local planning authority.
- 7) The development hereby permitted shall not be occupied until an HMO Management Plan, building upon the content of the Redwoods HMO Management Plan dated 15/10/2024, has been submitted in writing to, and approved by, the local planning authority. The development shall be operated and managed in accordance with the approved HMO Management Plan at all times.
- 8) The cycle storage and the refuse and recycling storage shown on drawings P08 and P09 shall be carried out and made available for use before the development hereby approved is occupied and thereafter retained.
- 9) The external materials of the extensions and alterations hereby permitted shall match those used in the existing building.
- 10) The HMO hereby approved shall be occupied by no more than 8 people at any one time.