The Planning Inspectorate

Appeal Decision

Site Visit made on 25 May 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2021

Appeal Ref: APP/M5450/W/20/3262523
3 Lyncroft Avenue, Pinner HA5 1JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr & Mrs Murtuza Hasnaini against the London Borough of Harrow Council.
- The application Ref P/2173/20, is dated 29 June 2020.
- The development proposed is "change of use from use class C3 dwellinghouse to sui generis house in multiple occupations (up to 8 bedrooms and 8 people)".

Decision

1. The appeal is dismissed and planning permission for the proposed change of use from use class C3 dwellinghouse to sui generis house in multiple occupations (up to 8 bedrooms and 8 people) is refused.

Preliminary Matters

2. The appeal follows the Council's failure to issue a decision within the relevant timescale. The Council have confirmed that were they to have issued a decision, they would have refused planning permission and I have been provided with what would have been their reason for refusal, which the appellant has commented on.

Main Issues

3. The main issues are therefore: (i) whether the proposed development would provide acceptable living conditions for future occupants; and (ii) the effect of the proposed development on the living conditions of neighbouring residents.

Reasons

Living Conditions of Future Occupants

4. The proposed change of use from a single dwellinghouse to a House in Multiple Occupation (HMO) includes internal alterations, which would provide three bedrooms, two kitchens and one dining area at ground floor level and five bedrooms at first floor level. Two of the ground floor bedrooms would have windows facing directly onto the existing parking area at the front of the appeal site ('Bedroom 1' and 'Bedroom 2'), while the other ground floor bedroom would have French doors opening into the rear garden ('Bedroom 3'). I note that in a previous appeal[1] it was concluded that the proposed change of use to an eight-bedroom ten-person HMO would have resulted in unacceptable living conditions for the occupants of Bedrooms 1, 2 and 3 due to a lack of privacy and the levels

[1] APP/M5450/W/20/3256326

of disturbance that would be experienced, demonstrating a failure to provide high quality internal space.

5. The submitted site plan shows 'low to medium height' defensive planting and low-level shrubs along the frontage of the house abutting the ground floor windows of Bedrooms 1 and 2, and an area enclosed by defensive planting around the rear French doors of Bedroom 3, seeking to address the privacy and disturbance issues previously identified. Annotations on the plan state that all hedges will be maintained at a maximum height between 1m and 1.5m.

6. The effect of the proposed defensive planting between these heights would be to maintain a minimum separation distance between people outside the ground floor level windows and French doors, but the distances involved would remain too close to maintain any reasonable level of privacy or to avoid any unacceptable level of disturbance affecting the occupants Bedrooms 1 and 2 caused by other residents passing by when regularly accessing the property, its parking area and its garden. A clear elevated view into Bedroom 2 from the main entrance step would also remain. Residents using the garden would be to free enjoy the patio and lawn for a range of activities in close proximity to the French doors opening into Bedroom 3. In my view, significant planting over 1.5m in height would be necessary to avoid direct views into the ground floor bedrooms from other residents of the HMO.

7. Aside from the kitchens and a dining area, no internal communal space would be provided for residents outside of their bedrooms, which are shown to be single occupancy, placing more importance on the quality of those areas. The garden area is therefore likely to be used often by future occupants – not only to access the bicycle store. As also identified in the previous appeal, the only routes for residents to access the garden would be from the existing front or side entrances, exacerbating privacy and disturbance issues for residents of Bedrooms 1 and 2 and potentially resulting in pressure to use the rear French doors of Bedroom 3 to access the garden. The proposed defensive planting would not acceptably address these concerns.

8. I have considered whether conditions could require further details of the defensive planting, seeking to retain it at a higher level to address the privacy issues identified, but this would have serious implications for outlook from those bedrooms and would not in any event address the potential disturbance issues identified.

9. The proposed internal arrangement and garden would meet the relevant space standards, but the quality of living accommodation provided by the three ground floor bedrooms would be unacceptably poor and would not provide acceptable living conditions for future occupants on account of the lack of privacy and levels of disturbance that would be experienced. The proposal would therefore fail to comply with Policy CS1 of the Harrow Core Strategy (2012) and Policies DM1 and DM30 of the Harrow Development Management Policies Local Plan (2013). These require, amongst other things, a high standard of residential design which achieves high standards of privacy and amenity, creating satisfactory living conditions for future occupiers.

Living Conditions of Neighbouring Residents

10. I note the appellant's claims that a comparison should be made between the impact of the proposed eight-person HMO use and that of a six-person HMO use,

which the appellant claims could be implemented without the need for planning permission. I have not been presented with a certificate of lawfulness for proposed development relating to such a use to convince me this is a lawful and likely fallback position. This is not the existing situation in any event. I therefore consider it more appropriate to compare the proposal to the existing use of the appeal site, which is as a five-bedroom single dwelling. I note the appellant's claims that as three of the bedrooms are over 11.5 sq.m. in size the dwelling could be occupied by up to eight people, but that would be its maximum potential capacity, and occupied as a single household.

11. The HMO would be occupied by a maximum of eight residents, although it is not clear as to how this could be controlled by way of a reasonable and enforceable condition. As all of the rooms would be single occupancy it can be assumed that all residents will be adults and it is likely that those residents would be visited by guests occasionally, with other associated comings and goings in excess of those currently experienced at the appeal property. The impact of that level of increased activity at the front of the site would have little effect on the living conditions of neighbouring residents due to the open nature of frontages in this area and the location of the appeal site close to the junction of Lyncroft Avenue and Eastcote Road.

12. As set out above, the garden would be an important and regularly used space by residents of the HMO. I noted during my site visit that the access route to the garden is very narrow, along the boundary wall of the neighbouring dwelling, and there are neighbouring residential gardens on both sides and to the rear. In this context, the level of disturbance caused to neighbouring residents by up to eight residents not living as the same household and any guests accessing and using the garden would be significantly different in terms of the number of people using that space and the intensity of its use. As a consequence, this would be more harmful to any disturbance caused by the existing single dwelling use. The level of harm caused to the living conditions of neighbouring residents would be unacceptable.

13. The proposal would therefore fail to comply with Policy CS1 of the Harrow Core Strategy (2012) and Policies DM1 and DM30 of the Harrow Development Management Policies Local Plan (2013). These require, amongst other things, a high standard of residential design which achieves high standards of amenity, with no adverse impact on the amenity of neighbouring residents.

Other Matters

14. Reference has been made to other HMOs approved by the Council, but those decisions do not affect the conclusions I have reached on the main issues in this particular case which are specific to its merits and individual circumstances.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

L Douglas

INSPECTOR