



Appeal Decision

Site visit made on 17 January 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Appeal Ref: APP/F5540/X/21/3276210

221 Bulstrode Avenue, Hounslow TW3 3AF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Mall against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00170/221/LAW1, dated 18 September 2020, was refused by notice dated 24 March 2021.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described as: Large HMO.
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Summary of Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's refusal to grant a certificate of lawfulness for the use of the property as a large House in Multiple Occupation (large HMO) is well founded.

Reasons

3. In matters such as this the onus is on the appellant to demonstrate his case on the balance of probabilities. The use as a large HMO must therefore have subsisted for a continuous period of 10 years prior to the appeal application, which was dated 18 September 2020 (a relevant period). My assessment is therefore very fact specific, based upon the evidence before me.
4. The site relates to a two-storey semi-detached property situated on a corner plot. Internally, it currently consists of 8 bedrooms with en-suites, as well as a shared kitchen and communal area. The appellant seeks certification for use as a large HMO for 8 occupants.
5. The appellant has submitted an Affidavit that was declared and signed on 3 December 2020. He states that four rooms in the property were occupied between 1 February 2010 and 9 March and 9 June 2012 respectively. It is then said that a further tenant occupied the property between 12 December 2011 and 2 July 2014.

6. The case of the appellant is that he and his family also occupied the property, and given he rented the additional rooms as he describes, there has been a total of 8 to 9 occupants in the property since February 2010.
7. The Council states the property was registered for licensing purposes as an HMO in January 2010 for up to 5 people. Council Tax records then indicate the property was split into 8 rooms from August 2012. These documents, although not placed before me by the Council, are not contested by the appellant. He also states that the property was renovated in 2012, and following this, he and his family relocated prior to the arrival of new tenants in September 2012. In my view, the Council's records largely corroborate the appellant's version of events in these respects.
8. The appellant thus seeks to rely on both his family's occupation of the property, as well as the 4/5 tenants he has described between 2010 and 2012, prior to the renovation of the property, in order to demonstrate a relevant period. This is however problematic as an HMO is defined in Section 254 of the Housing Act 2004, to satisfy which, amongst other things, the living accommodation will need to be occupied by persons who do not form a single household. This however was plainly not the case on the evidence before me given it was also occupied by the appellant's family and he seeks to rely upon this for the purposes of certifying a large HMO.
9. Accordingly, the evidence is that the use as a large HMO could not have subsisted before September 2012. Therefore, a relevant period of 10 years continuous use as a large HMO prior to the submission of the appeal application, in September 2020, cannot be demonstrated.
10. As a matter of fact and degree, based upon the evidence before me, the appellant has not discharged the necessary burden of proof to demonstrate his case on the balance of probabilities.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

12. The appeal is dismissed.

Paul T Hocking

INSPECTOR