



Appeal Decision

Site visit made on 24 January 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

Appeal Ref: APP/H5390/W/22/3292072

275 Uxbridge Road, London W12 9DT

- 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 Brownie Property Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham (the Council).
 - The application Ref 2021/02945/FUL, dated 10 September 2021, was refused by notice dated 11 November 2021.
 - The development proposed is the conversion and change of use of two residential flats (Class C3) into a 10 bed house of multiple occupation (HMO) (Sui Generis), rear extension, associated cycle parking and refuse and waste.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the proposed large HMO would be a single planning unit, within the appeal documentation various references are made to the individual bedroom/kitchenette rooms as separate units. For the purposes of clarity, within this decision, the individual letting rooms are each referred to as units, and the internal communal living area is referred to as the living area.

Main Issues

3. The main issues are;
 - the effect of the development on the character and appearance of the area;
 - whether the proposal would provide adequate living conditions for future occupiers of the property, with particular regard to outlook, privacy, noise and air quality; and
 - the effect of the development on the conditions experienced by occupiers and users of land and property within the area, with particular regard to noise, activity levels, parking stress and obstruction of the highway, both during the construction phase and during the subsequent use of the property.

Reasons

Character and appearance

4. An end of terrace building with accommodation over four storeys occupies the appeal site. It comprises one of a number of similar such properties between St Elmo Road and the B4308 which have a strong front building line addressing Uxbridge Road. Whilst there is some variation in the appearance of these properties, there is a pleasing regularity to their general rhythm and form. To

the front of the main buildings, the properties typically feature low front boundary treatments, steps up to the main front doors and low boundary walls that separate the properties. Notwithstanding this, the front garden areas retain a sense of openness which contributes positively to the character and appearance of the buildings and wider area.

5. Due to its size, height and location to the front of the prevailing building line, the proposed bin store structure would be visually prominent when viewed from public vantages within Uxbridge Road close to the appeal site. Furthermore, it would erode the distinctive openness of the front garden area which would be harmful to the character and appearance of the area.
6. Whilst the evidence indicates that the plans submitted and approved under application reference 2017/03940/FUL included bins within the front garden area, no compelling evidence has been put forward demonstrating that they were to be accommodated within a structure. The proposed bin store structure would conceal the bins from vantages within the street. However, both the bin storage area and the number of bins indicated as part of the development proposal subject of this appeal, are significantly greater and would be more visually prominent than that which the appellant indicates to be the previously approved location of refuse store.
7. Having regard to paragraph 55 of the National Planning Policy Framework and relevant advice provided within the Government's Planning Practice Guidance notes, I have considered whether otherwise unacceptable development could be made acceptable by the imposition of conditions. In this case, the bin store structure forms part of the development subject of this appeal. Furthermore, no compelling evidence has been put forward demonstrating how a condition, such as one relating to soft landscaping, could satisfactorily overcome the previously stated harm.
8. For the reasons given above, the proposed development would harm the character and appearance of the area. Consequently, it would conflict with the parts of policies DC1, DC4 and OS5 of the Hammersmith & Fulham Local Plan 2018 (the Local Plan), where they seek to ensure that development proposals create a high-quality urban environment that respects and enhances its townscape context; are compatible with the scale and character of existing development and its setting; and protect front gardens from new development.

Living conditions – future occupiers

9. Amongst other things, policy CC10 of the Local Plan requires that an air quality assessment be provided in support of all development proposals which may be impacted by local sources of poor air quality. Policy SI 1 of the London Plan - 2021 (the London Plan) indicates that development proposals should not create unacceptable risk of high levels of exposure to poor air quality, and that, as a minimum, design solutions be used to prevent or minimise increased exposure to existing air pollution.
10. The authorised use of the appeal site is residential and, I accept that the previously approved and implemented development¹ authorised the creation of 7 bedrooms within two self-contained flats in the building. However, although

¹ Planning application reference 2017/03940/FUL

the appellant indicates that the permission did not restrict the number of people who may live in the flats, the effect of the proposed development would be to authorise a further 3 bedrooms. The additional units would be located within parts of the building that are identified as living spaces and a kitchen on the existing floor plans. Therefore, and on the evidence before me, I find that the residential use of the property would be intensified as a result of the proposed development.

11. Both main parties agree that the appeal site is within an Air Quality Management Area, and an area of poor air quality due to road traffic emissions from Uxbridge Road. Given that the proposal is not major development, the requirement at Policy CC1 of the Local Plan to minimise carbon dioxide emissions would not apply, and as such I have no basis to conclude that zero emission air/water source heat pumps or electric boilers are required. Also, because there are no proposals to install new space or hot water heating systems within the property, I cannot conclude that the development proposal would lead to a worsening of local air quality.
12. However, and notwithstanding the above, the requirements of policy CC10 of the Local Plan are relevant due to the proposed intensification of the use of the property and the sensitivity of additional future residents to air pollution. I have been provided with no air quality assessment containing details of the potential for exposure to pollution levels, and, if required, identification of suitable mitigation measures to reduce exposure to acceptable levels. I am therefore unable to conclude that the development would not cause additional future residents to be exposed to unacceptable poor levels of air quality.
13. Soft landscaping proposals, which include the provision of a sedum roof to the store area would undoubtedly help to improve the air quality within the area, However, given the small scale of the landscaping proposals, and even if the windows were replaced, I have no basis upon which to conclude that the proposed development would improve air quality to an extent which would remove the unacceptable risk of high levels of exposure to poor air quality for additional future residents of the property.
14. The outlook which would be available from within unit one would be severely constricted by the dominant and oppressive side boundary wall which is located in close proximity and parallel to the side wall containing the sole window serving this unit. The outlook from within unit two would be similarly constricted due to the close proximity and height of the retaining wall and proposed bin store in front of the windows serving this unit. Whilst future occupiers would have access to the communal living room, they are likely to spend a reasonable proportion of time within their private rooms. This is particularly so, given that each unit has its own kitchen area, seating area and en-suite facilities.
15. I accept that the previously consented scheme authorised the creation of a bedroom within the proposed unit 1. However, in that case, the bedroom formed one of a number of rooms within the flat, and as such the level of use of the bedroom could reasonably be expected to be lower than that within a private bedroom unit containing kitchen facilities and seating within an HMO.
16. Future occupiers of the HMO would have access to the rear outside space and cycle store via the communal living room. However, when taking cycles to or from the store they are much more likely to utilise the external passage which

is at lower ground floor level, and which passes immediately adjacent to the window serving unit 1. People accessing the rear outside space, bike store and secure store/management office via the external passage, would pass immediately adjacent to the window serving unit 1. Such movements would be likely to cause noise disturbance and unacceptably intrude upon the privacy beyond the level the occupiers of that unit may reasonably expect to experience.

17. Although within units four and seven, the side wall of number 273 Uxbridge Road (number 273) would be the most prominent feature when viewed through the windows of the units, it would not be oppressive. This is due to the presence of the intervening side passageways serving both the appeal site and number 273, which affords a reasonable separation distance between the windows serving these units and the side wall of number 273. The 10 bedrooms and the living area would achieve levels of natural light which exceed the minimum standards prescribed by BS8206:2. Future occupants would therefore be able to enjoy a well-lit environment with reduced reliance on artificial lighting. In respect of the number and sizes of rooms and facilities, the appeal scheme would also provide adequate living conditions for future occupiers. Furthermore, no compelling evidence has been presented leading me to doubt that the incorporation of insulation between rooms, will prevent future occupiers from enjoying reasonable living conditions in respect of noise and activity generated within the building. However, these considerations do not lead me away from my previous findings of harm.
18. For the reasons given above, and in respect of outlook, privacy, noise and air quality, I conclude that the development would fail to provide adequate living conditions for future occupiers of the property. Consequently, and in these respects, it would conflict with the parts of policies SI 1 of the London Plan, and CC10 of the Local Plan, which seek to prevent development which would cause unacceptable risk of high levels of exposure to poor air quality air quality. It would also conflict with those parts of policies HO8, H011 and CC11 of the Local Plan, that require development to be of a high standard of design which will meet the needs of future occupants; which would not cause such occupants to be adversely affected by noise; and that would not have an adverse impact upon residential amenity. Although it has not been demonstrated that the proposal would conflict with the Hammersmith and Fulham Standards and Guidance for Houses in Multiple Occupation (2020) document, this does not affect my conclusions in respect of this main issue.
19. As Local Plan policy CC1 relates to proposals for major developments, it is not determinative in this appeal.

Occupiers and users of nearby property and land

20. The appeal site is located within a busy urban area, mainly comprising a mixture of properties in residential and commercial uses. It fronts onto Uxbridge Road, close to a signal-controlled junction. The Council advise that Uxbridge Road is one of London's distributor roads, which accommodates a high volume of traffic through the day. Although a snap-shot in time, during my mid-morning and mid-week site visit, I found Uxbridge Road to be very busy and external ambient sound levels to be relatively high.
21. I have already found that the development would lead to an intensification of the residential use of the property. However, and in the absence of any

compelling evidence to the contrary, the noise and activity generated by the future occupiers of the 3 additional bedrooms and their movements to or from the property, would be barely perceptible to occupiers of neighbouring properties or users of nearby property and land. This is due to the high levels and types of noise generating activity occurring within the area.

22. Increased noise levels and disturbance would undoubtedly occur during the construction phase. Unless appropriately managed, there is also potential for delivery and construction workers to temporarily obstruct the carriageway within Uxbridge Road, which would be detrimental to the free-flow of traffic. However, I have no basis to conclude that these effects would be other than temporary. Furthermore, and had this appeal been allowed, then, during the construction phase of the development, matters related to noise, disturbance and obstruction of the highway could be minimised to an acceptable level by the imposition of an appropriately worded condition.
23. Whilst no dedicated car parking is to be provided within the appeal site, covered bicycle storage for 10 bicycles is proposed to the rear of the site, and parking for an additional 2 bicycles is proposed to the front of the property. Located within an area with a PTAL rating of 4, the appeal site has a good level of public transport accessibility. In these circumstances, and based upon the evidence before me I find no need for dedicated car parking provision as part of the development proposals.
24. Within the area, parking restrictions prevent on-street car parking on Uxbridge road. Within nearby roads on-street parking is generally provided on a pay and display basis and/or for those with car parking permits. The Council indicate that they would only consider granting resident permits where the PTAL level is 2 or lower. As such, there is no basis to consider that future residents would be able to secure residents car parking permits. During my site visit, I found ready availability of on-street car parking within the surrounding roads. Given that such parking attracts a fee, the good accessibility of the site to public transport, and the provision of bicycle storage facilities on the site, I have no basis to conclude that the development would lead to a harmful increase in parking stress within the area which would be to the detriment of the living conditions of occupiers of neighbouring properties.
25. For the above reasons, I conclude that the proposed development would not have an unacceptable adverse effect on the conditions experienced by occupiers and users of land and property within the area, with particular regard to noise, activity levels, parking stress and obstruction of the highway, both during the construction phase and during the subsequent use of the property. Consequently, and in these respects, it would comply with policies T1 and T4 of the London Plan and T7 of the Local Plan, where they seek to ensure that development proposals will not increase road danger, and that they mitigate and/or minimise impacts on transport networks. It would also comply with the parts of policies D14 of the London Plan, and H08, and CC11 of the Local Plan which seek to ensure that development would not have an adverse impact on residential amenity, and which would prevent noise generating development which cannot be managed to avoid significant adverse noise impacts on health and quality of life. In addition, it would comply with the objective of Policy T4 of the Local Plan, which requires sufficient car parking to be provided to meet the needs of the development.

Other Matters

26. The provision of accommodation for single people who may not be able to afford self-contained accommodation, would help to meet the need and demand for such accommodation. This is a benefit. So too, is the provision of a larger outside rear amenity space and the provision of an office on site, which will facilitate the good management and upkeep of the property. However, given the small scale of the development proposal, the weight that can be attributed to these benefits is limited.
27. Whilst there are many registered HMO's within the borough, including some close to the appeal site, I have been presented with no compelling evidence from which to conclude that these have planning permission or have obtained lawfulness for such uses. Furthermore, this appeal has been determined on its own merits, based on the submitted evidence.
28. Whilst pre-application advice was sought and provided, it was not wholly supportive of the development then proposed. Although subsequent amendments may have been made to the scheme, I have found that the development proposed would provide unacceptable living conditions for future occupiers and would harm the character and appearance of the area.

Conclusion

29. I have found that the development would not enable all future occupiers of the appeal site to secure suitable living conditions, and that it would have an unacceptable harmful effect upon the character and appearance of the area. Whilst I have also concluded that the development would not cause unacceptable harm to the conditions experienced by the occupiers and users of nearby properties and land, this does not justify a different conclusion being reached regarding the acceptability of the development.
30. The development conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
31. For the reasons given above, I conclude that this appeal should be dismissed.

V Simpson

INSPECTOR