

Appeal Decision

Site visit made on 20 June 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Appeal Ref: APP/Y1945/W/22/3308524

59 Gladstone Road, Watford, Hertfordshire WD17 2RA

- 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 P Kouruombashev, Kubrat Estate Ltd. against the decision of Watford Borough Council.
 - The application Ref 22/00794/FUL, dated 14 June 2022, was refused by notice dated 4 August 2022.
 - The development proposed is change of use to large HMO (sui generis) and associated internal alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice includes reference to an emerging plan. However, following the Council's decision on this proposal, the Watford Local Plan 2021 – 2038 (Local Plan) was adopted. The Council, through this appeal process has confirmed that this recently adopted development plan replaces the Watford Local Plan Core Strategy and The Watford District Plan. The policies of these plans are therefore superseded by policies of the new Local Plan. The appellant has, in this appeal, been invited to comment on this material change and their comments on this matter have been considered in reaching this decision.

Main Issues

3. The main issues are:
 - Whether the proposal would provide satisfactory living conditions for the future occupants of the dwelling, having regard to light, outlook, privacy and private outdoor space; and
 - The effect of the proposal on the character of the surrounding area with reference to the balance and mix of housing.

Reasons

Living Conditions

4. The appeal property is a small house of multiple occupation (HMO) with a capacity for six individuals, which the main parties state is lawful under

permitted development rights. This proposal would increase this capacity to accommodate nine individuals. No internal changes are proposed other than three currently single bedrooms changing to double person rooms.

5. Bedroom 1, on the lower ground floor, has an outlook over the rear garden. This bedroom has two windows and a door at the rear elevation such that future occupants of the large HMO would have clear views into this bedroom, when using the rear garden and accessing the proposed cycle storage at the end of the rear garden. The expanse of openings at bedroom 1 would provide little privacy for future occupants of this room when other occupants are in the rear garden.
6. The dwelling already functions as a small HMO and the property would likely remain in this use if this appeal was dismissed. However, this proposal would significantly increase the capacity of the dwelling and in turn this would significantly increase the number of residents using the rear garden. Occupants of bedroom 1 would be conscious of the significant increase in the usage of the garden and in this regard their living space would feel materially less private. The resultant loss of privacy would materially alter the quality of this accommodation, and in this respect, the bedroom would provide an unsatisfactory living space for future occupants.
7. The appeal property has a reasonable size rear garden. The access to this outside space, with the exception of the occupants of bedroom 1, would be via the external side passage. However, this would only be a short walk such that this would not result in an unreasonable degree of separation likely to dissuade future occupants of the HMO from using this outside space.
8. The appellant asserts that Policy QD6.4 of the Local Plan is not relevant to this proposal as it relates to new buildings. However, this Policy states that well designed buildings that, amongst other matters, are functional, will be supported. The supporting text of this Policy also clarifies, in respect of high quality building design, that this includes the internal living environment. This is consistent with the National Planning Policy Framework (the Framework) that requires a high standard of amenity for existing and future users. This proposal would intensify the use of the internal and external living environment of the building, and this has the potential to impact on its occupants' living conditions. The Policy is relevant in this regard.
9. The appellant also highlights that the existing HMO is maintained to a high standard, which includes the employment of professional cleaners, and that the existing amenities exceed the Council's guidance on HMOs¹. I also note that the size of the bedrooms would exceed the Council's guidance on this matter. Be this as it may, this would not address the material loss of privacy in this case that would result from the proposed increase in capacity at this dwelling. This matter has not altered my findings for this reason.
10. Although I consider the private outdoor space would be acceptable and I find no harm in respect of outlook and light, this would not be the case with regards to privacy. For the reasons outlined above, I find that the proposal would not provide satisfactory living conditions for the future occupants of the dwelling, having regard to privacy. In respect of this matter, the

¹ Ref: Watford Borough Council House in Multiple Occupation – Amenity and Space – Guidance for Landlords

proposal would conflict with Policy QD6.4 of the Local Plan. The proposal would also be inconsistent with the Framework with regards amenity.

Character and Appearance

11. The appeal property is in a residential street. While it is close to the town centre the area has a distinct suburban residential character, with a local primary school located around the corner. Although it is evident that a number of properties are HMOs on the street, there are also family homes, and I observed a distinct sense of community which includes families with children walking to school.
12. Policy HO3.9 of the Local Plan provides support for large scale HMOs where the property has *'an original, unextended, floor area of at least 150sqm'*. The Policy also supports HMOs with good access to public transport, appropriate amenity space and refuse facilities.
13. The supporting text of Policy HO3.9 recognises that HMOs have an important role in the availability of housing, but also highlights the importance of maintaining balanced communities. The text states that a concentration of HMOs ... *'can create issues that are visible through inappropriate number of parked vehicles, decline in maintenance, affecting property and amenity in the immediate area'*. The supporting text also states that to ensure HMOs are in the right location without having adverse impacts on the surrounding area, only 10% of dwellings along a residential frontage will be permitted.
14. The appeal property is already an HMO and I find no substantive evidence that this would change if I dismissed this appeal. However, the proposal would significantly increase the bedspaces at the property and therefore the number of individuals coming and going from the property.
15. The proposal would not result in external alterations to the building and there would be adequate storage space for refuse. However, there would be a material increase in individuals at the property and the often-transient nature of occupiers of HMO's means that they may be less involved in local community activities. Moreover, a large HMO inhabited by a number of individuals is distinctly different to how a family may occupy a dwelling, in terms of maintenance, and this effects the character of an area.
16. The evidence presented indicates that the original floor area of appeal property would be considerably less than the 150 sqm supported in Policy HO3.9 for large scale HMOs. There would be conflict with the Policy in this respect.
17. Conflicting evidence has been presented in respect of the percentage of HMOs in the area. The Council concludes that over 50% of the dwellings in the residential frontage that includes the appeal property, are subdivided. The appellant states that the Council's records show 5% of the street is HMOs but concedes that more than 10% of the frontage of Gladstone Road is non-family residential accommodation. In any event the evidence before me, and from what I observed on the site visit, clearly indicates a significant number of dwellings have been subdivided and there is a pattern of family dwellings being lost to these subdivisions in this area.

18. Although dismissing the appeal would not lead to the property reverting to a family home, allowing the proposal would intensify the use at the property, and this would materially increase the capacity of this type of housing in this area. It seems to me that given the existing concentration of subdivided properties in this area, any additional increase in capacity, even at an existing HMO, would have a cumulative adverse impact on the character of the area. The area would be significantly, adversely impacted in terms of maintenance and through an imbalance of housing types in this area, which in turn would further erode the balance of communities that characterise this locale.
19. The appeal site is well related to the town centre, and areas close to the town centre can be suitable for a higher density of development. While the appellant may contend that the 10% HMO threshold in these areas should be increased, the Local Plan sets out the development strategy for the area and this has been subject to examination. This aside, even if there was parity between single-person and family households in the future, a significant proportion of dwellings in the vicinity of the appeal property are already subdivided. This proposal would extend the capacity in the area further and this would be in conflict with the objectives of Policy HO3.9 which seeks to maintain a balanced community.
20. The appellant highlights the high standards of management that currently applies to the small HMO at the appeal property, and this includes the maintenance of the garden. However, there is no certainty that this would be the case in the future if the HMO was to change hands. I attach limited weight to this matter for this reason.
21. My attention has been drawn to a planning permission for a large HMO on Rosslyn Road. However, this road is a considerable distance from the appeal property. The character of that road is mixed in terms of residential and commercial uses, and also has apartment blocks. The road is therefore distinctly different to the character of Gladstone Road. Also, that proposal was determined against policies that have now been replaced. This proposal is not directly comparable with that development for these reasons. Therefore, this matter has not altered my findings for this reason.
22. In light of the above, I find that the proposal would have a significantly harmful effect on the character of the surrounding area with reference to the balance and mix of housing. In this regard it would conflict with Policy HO3.9 of the Local Plan. The proposal would also be inconsistent with the Framework which seeks well-designed places.

Other Matters

23. An HMO licence has been secured from the Council. However, this is a separate regime from the planning system and has little bearing on this decision for this reason.
24. The proposal would result in three additional bedspaces, and, in this respect, it would contribute in small part to the Government's objective to significantly boost the supply of homes. While there is no mechanism to ensure the additional bedspaces would be affordable, the proposal would contribute in a small way to the supply of lower cost residential

accommodation. It would therefore add to the mix of housing available in the area. The appeal property is within walking distance of town centre facilities and good public transport links and this weighs in favour of the proposal. However, the economic, social and environmental benefits would be limited given the scale of the proposal

25. The appellant states that the proposal would be an effective use of the dwelling. However, this proposal would result in an unacceptable loss of privacy and would not provide healthy living conditions in this regard. The proposal would not be an effective use of land in this respect. Moreover, the Framework states that good design is a key aspect of sustainable development, and as outlined above, I find conflict in this case with the Framework with regards local character and the standard of amenity.
26. The Council had a measurement of 48% in the Housing Delivery Test 2021, which indicates that the delivery of housing was substantially below the housing requirement over the previous three years. The appellant asserts on this basis the provisions set out in paragraph 11 of the Framework are relevant in this case.
27. However, since that time the Council has adopted a new Local Plan. Even if the development plan policies relevant to this proposal were found to be out of date, the adverse impacts on the living conditions of future occupants of the HMO and on the character of the area, resulting from this proposal, would significantly and demonstrably outweigh the limited benefits that would arise, when assessed against the policies in the Framework taken as a whole.
28. The appellant contends that the proposal would not increase parking demand, and this is not disputed by the Council. However, in respect of large HMOs Policy HO3.9 provides support where the proposal is car free or parking provision is provided on site, or in nearby off-street parking facilities. The proposal would not appear to provide onsite parking or off-street parking elsewhere. Moreover, no mechanism has been presented that would ensure the large HMO is a car free property. The proposal would therefore not accord with Policy HO3.9 in this regard. This matter does not weigh in favour of the proposal for this reason.
29. The appellant asserts that the 150 sqm figure stated in Policy HO3.9 of the Local Plan is arbitrary. Be this as it may, development should be determined in accordance with the development plan unless material considerations indicate otherwise. In this case I have found conflict with the Local Plan policies which are consistent with the Framework, and no material considerations, including the Framework, have been presented that would outweigh this conflict.

Conclusion

30. Having regard to the development plan and other material considerations, including the Framework, the appeals should be dismissed.

A J Sutton

INSPECTOR