



Appeal Decision

Site visit made on 7 June 2023

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 th August 2023

Appeal Ref: APP/F5540/W/22/3309719 221 Bulstrode Avenue, Hounslow TW3 3AF

- 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 Kulvinder Mall against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00170/221/P5, dated 22 April 2022, was refused by notice dated 1 August 2022.
 - The development is the use of the property as a large house in multiple occupation as eight bedroom unit.
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Decision

1. The appeal is allowed, and planning permission is granted for the use of the property as a large house in multiple occupation as eight bedroom unit at 221 Bulstrode Avenue, Hounslow TW3 3AF in accordance with the terms of the application, Ref 00170/221/P5, dated 22 April 2022, and the plans numbered Site Plan, Block Plan, A101, A102, A103, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. The appellant's name was incomplete on the application form, so I have used that provided on the appeal form.
3. For clarity I have used the description of development given on the decision notice as it more accurately describes the development. I have however, removed words which are not acts of development and are superfluous.
4. The appeal property is already in use as an 8 bedroom House of Multiple Occupation (HMO), however I have determined the appeal on the basis of the development applied for and the submitted drawings.
5. Since the determination of the application the Council has granted a Certificate of Lawful Use or Development (LDC) for "*existing use of property as a large house of multiple occupation*"¹. This followed an earlier dismissed appeal² for a proposed LDC for a "*large HMO*".
6. The Council have confirmed that the HMO Supplementary Planning Document (SPD) referred to in the officer report is the document entitled "Standards for Houses in Multiple Occupation" (May 2018).

¹ Council Reference: 00170/221/LAW3

² APP/F5540/X/21/3276210

Main Issues

7. The main issues are:

- the effect of the HMO on the character of the area,
- whether the HMO is in a suitable location in respect of access to town centre facilities by a choice of means of travel,
- the effect on the living conditions of the occupiers of nearby properties with particular reference to noise and disturbance, and
- whether the development provides acceptable living conditions for occupiers with particular reference to room sizes and kitchen facilities.

Reasons

Character

8. The appeal site comprises a two-storey semi-detached building located adjacent to the junction of Bulstrode Avenue and Sutton Lane within a predominantly residential area. The property has been extended to the side and rear and is in use as an HMO of 8 bedrooms. All bedrooms have en-suite bathrooms, and a shared kitchen and conservatory are located on the ground floor. Externally, the property benefits from a driveway and a good sized, shared garden.
9. Policy SC10 of the London Borough of Hounslow Local Plan (LP) 2015 – 2030 Volume 1 sets out a list of criteria which new HMOs will be expected to comply with. This includes a requirement that for a house to be eligible for conversion into an HMO, it must have a minimum 'original' floor area greater than 130 sqm (criterion (e)). The explanation to the policy is to avoid harmful impacts to residential amenity and the character of the surrounding area. Prior to being extended the property was approximately 90 sqm and therefore below the minimum required by Policy SC10.
10. Nevertheless, there is no dispute that the use of the dwelling as a larger HMO is lawful. Whilst the number of occupants is not defined on the LDC, it must be for at least 7 occupants. The Council has not provided any evidence that the existing use of the dwelling has any additional impact upon the character of the area, over and above its lawful use. Therefore, although I find an element of conflict with LP Policy SC10, the conflict is outweighed by the lack of demonstrable harm in respect of the character of the area.
11. Sufficient space is available for waste and recycling containers to be stored out of sight in a fenced area to the side of the building, however no formal bin store is provided and at the time of my site visit not all the bins were being kept in this area. Were I minded to allow the appeal a suitably worded condition could secure the provision of a suitable bin store. Subject to such a condition, the development would not result in harm to the character of the area as a result of inadequate waste and recycling provision.
12. I therefore conclude that the change of use does not harm the character of the area and therefore, although there is some conflict with criterion (e) of LP Policy SC10, I find no conflict with its overall objectives in this respect which is to protect the character of the area. Neither do I find any conflict with Policies

CC1 and SC5 which, amongst other matters, also seek to protect the character of an area.

Location

13. Policy SC10 at criterion (d) requires HMOs to be located within convenient walking distance of town centre facilities and good public transport links. The site is within walking distance of the town centre type facilities of Bath Road which includes a number of shops and restaurants. Furthermore, the boundary of Hounslow town centre is approx. 660m away which I consider to be convenient walking distance.
14. There are bus stops within close proximity to the appeal site which provide routes to Bath Road and Hounslow Town Centre. Hounslow Central Station, which is on the Piccadilly line is approx. 800m away. The Council contend that larger HMOs should be located within areas which have a Public Transport Accessibility Level (PTAL) level of 4, set against the PTAL of the appeal site which is 3. However, this is not a requirement of the policy and neither the policy nor the explanation to it gives a definition of 'good public transport links'. The site is in a location where public transport is easily accessible and therefore in this respect the development meets the requirements of criterion (d) of LP policy SC10.
15. I conclude that the HMO is in a suitable location in respect of access to town centre facilities by a choice of means of travel. Therefore, I find no conflict with Policy SC10 of the LP which seeks to ensure that HMOs are appropriately located.

Living conditions of neighbours

16. The appeal site is the last property on the north side of Bulstrode Avenue and is separated by roads from all but the attached neighbouring property. As described above the LDC which has been granted confirms the lawful use of the property as a larger HMO for at least 7 occupants. The appeal proposal is for 10 residents. As such there would be no material increase in activity between the lawful use of the property and the appeal proposal. Consequently, there would be no material increase in noise and disturbance experienced by neighbouring occupiers.
17. I conclude that the development does not have a demonstrably harmful effect on the living conditions of neighbouring occupiers with particular reference to noise and disturbance. As such the development accords with policies CC2 and SC10 of the LP which, amongst other things seek to ensure that developments do not harm the living conditions of occupiers of neighbouring properties.

Living conditions of occupants

18. The development provides 8 rooms and the proposal would see these occupied by up to 10 residents. The Council contend that it is unclear whether the rooms comply with the space requirements outlined in the HMO SPD. The appellant has provided evidence which confirms that the bedrooms are all in excess of 9sqm and at least 2 of the bedrooms are in excess of 12 sqm. Therefore, the bedrooms comply with the requirements of the HMO SPD in this regard.
19. Whilst the primary kitchen area falls below the 11sqm required by the HMO SPD it is contiguous with the conservatory which operates as part of the

kitchen with a variety of white goods and table and chairs. Together the floorspace of both rooms combined is 23sqm which exceeds the 11sqm required by the HMO SPD.

20. Consequently, I conclude that the development provides acceptable living conditions for 10 occupants with particular reference to room sizes and kitchen facilities. Therefore, the proposal accords with Policy D6 of the London Plan (Adopted March 2021), Policies SC5 and SC10 of the LP and the HMO SPD. Together, and amongst other things these seek to ensure that developments provide an acceptable standard of accommodation for occupiers.

Other Matters

21. Whilst I note concerns in relation to increased crime, litter in the area and parking difficulties that exist in the area, there is little evidence that these general issues are a direct result of the development.

Conditions

22. No list of suggested conditions has been provided by the Council, however the officer report suggests that had they granted planning permission they would have attached conditions requiring a management statement, details of cycle parking and bin store.
23. The HMO SPD sets out management standards but explains that these are legal requirements of the Management of Houses in Multiple Occupation (England) Regulations 2006. The Planning Practice Guidance³ is clear that conditions requiring compliance with other regulatory regimes will not meet the test of necessity and as such a condition to this effect is unnecessary.
24. As described above a condition requiring the provision of a bin store is necessary to ensure good refuse management. A condition requiring the provision of a dedicated cycle store is necessary to encourage sustainable modes of transport. Whilst there is an existing shed in the back garden this could be used for other types of storage and therefore the condition is necessary.
25. A condition limiting the occupancy of the development to 10 residents is necessary to regulate the overall effect of the development including the effect on the living conditions of the occupiers of neighbouring properties and of the development.
26. Neither a commencement condition nor a plans condition is required as the development has already occurred.

Conclusion

27. For the reasons given above, I conclude that the development accords with the development plan as a whole, and therefore the appeal is allowed.

E Pickernell

INSPECTOR

³ Paragraph: 005 Reference ID: 21a-005-20190723

Schedule of conditions

- 1) Within 3 months of the date of this decision, details of waste and recycling storage and a program for implementation shall be submitted to and agreed in writing with the Local Planning Authority. The waste and recycling storage shall be provided in accordance with the agreed details and retained thereafter.
- 2) Within 3 months of the date of this decision, details of cycle storage and a program for implementation shall be submitted to and agreed in writing with the Local Planning Authority. The cycle storage shall be provided in accordance with the agreed details and retained thereafter.
- 3) The house in multiple occupation hereby approved shall not be occupied by more than 10 persons at any one time.