



Appeal Decision

Site visit made on 15 August 2023

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28TH SEPTEMBER 2023

Appeal A Ref: APP/T5150/C/22/3298421

18A Woodhill Crescent, Harrow HA3 0LY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Devendrakumar Joshi (Global Care Kenton Ltd) against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice, numbered E/21/0024, was issued on 29 March 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO), occupied by more than six people.
- The requirements of the notice are to:
STEP 1- Cease the use of the premises as a House in Multiple Occupation (HMO).
STEP 2- Remove all partition walls, fittings and fixtures, facilitating the unauthorised change of use, from the premises and remove all associated items, debris and materials, arising from this removal, from the premises, so that the internal layout of the premises is returned back to a single family dwellinghouse.
- The period for compliance with the requirements is six (6) months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, and the enforcement notice upheld.

Appeal B Ref: APP/T5150/C/22/3298422

18B Woodhill Crescent, Harrow HA3 0LY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Devendrakumar Joshi (Global Care Kenton Ltd) against an enforcement notice issued by the Council of the London Borough of Brent
- The notice, numbered E/21/0025, was issued on 29 March 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO), occupied by more than six people.
- The requirements of the notice are to:
STEP 1- Cease the use of the premises as a House in Multiple Occupation (HMO).
STEP 2- Remove all partition walls, fittings and fixtures, facilitating the unauthorised change of use, from the premises and remove all associated items, debris and materials, arising from this removal, from the premises, so that the internal layout of the premises is returned back to a single family dwellinghouse.
- The period for compliance with the requirements is six (6) months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, and the enforcement notice upheld.

Appeal C Ref: APP/T5150/C/22/3298419

18C Woodhill Crescent, Harrow HA3 0LY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Devendrakumar Joshi (Global Care Kenton Ltd) against an enforcement notice issued by the Council of the London Borough of Brent
- The notice, numbered E/21/0026, was issued on 29 March 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO), occupied by more than six people.
- The requirements of the notice are to:
STEP 1- Cease the use of the premises as a House in Multiple Occupation (HMO).
STEP 2- Remove all partition walls, fittings and fixtures, facilitating the unauthorised change of use, from the premises and remove all associated items, debris and materials, arising from this removal, from the premises, so that the internal layout of the premises is returned back to a single family dwellinghouse.
- The period for compliance with the requirements is six (6) months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, and the enforcement notice upheld.

Matters Concerning the Enforcement Notices

1. In Schedule 4, Step 2, delete the words '*Remove all partition walls, fittings and fixtures facilitating the unauthorised change of use, from the premises and remove all associated items, debris and materials, arising from this removal, from the premises, so that the internal layout of the premises is returned back to a single family dwellinghouse.*' Substitute with the words '*Remove all partition walls, fittings and fixtures facilitating the use as an HMO from the premises and return it to its previous condition.*'
2. The changes to the requirements are for conciseness. Also, reverting the premises to the previous condition provides clarity for the appellant, who would be best placed to know what the layouts of the premises were before the material change of use took place. The variations outlined above should be made to each of three separate enforcement notices, which aside from the number reference and address are identical.
3. The corrections do not fundamentally change the matters alleged or the requirements in the notices. As such, they would not cause injustice to the appellant or the Council.

Preliminary Matters

4. Planning Contravention Notices (PCNs) were served on all three properties. The PCNs were completed, returned and dated 15 December 2021. The completed PCNs indicated that the property in respect to Appeal A was in use as a House of Multiple Occupation (HMO) with 8 occupants with an HMO licence, referenced HMOL/08112/20. Appeal B was in use as an HMO with 9 occupants, with an HMO licence, reference HMOL/08113/20. Both were granted a licence until October 2026. Appeal C was in use as an HMO with 10 occupants, with an HMO licence, reference HMOL/08114/20, granted until November 2026. All the HMO licences allow a maximum of 10 occupants in each property.

5. As set out in the banner, there are three appeals on neighbouring dwellings at 18A, 18B and 18C Woodhill Crescent. Although they are separate dwellings with separate notices, the three sites adjoin each other, they have the same appellant, and all have been served with notices on the same date with the identical allegations and requirements. I carried out the site inspections for all three appeals during one site visit and the Council has prepared a combined statement for all three. Although the appellant has appealed all notices separately and provided a different statement for each, much of the content of the statements is repeated with very few differences.
6. In view of the above, I have considered each proposal on its own individual merits where necessary. However, as the main issues and impacts of the proposals are the same, and to avoid duplication, I have considered the appeals together. I will refer to any differences with respect to Appeal A, Appeal B and Appeal C.
7. Since the submission of the appeals, the Council have outlined that the House of Multiple Occupation Supplementary Planning Document (SPD2) was adopted on 3 November 2022. SPD2 is relevant to the appeals, providing advice and guidance to applicants, communities and interested parties on applications for HMOs, as well as building on the relevant policies in the development plan. The appellants have been made aware of this and were provided with a copy, but no comments were submitted in respect of the guidance. As such, there would be no prejudice by me having regard to SPD2 in the determination of the appeals.

Main Issues

8. The main issues of the appeals are: -
 - whether there is an identified need for the Houses in Multiple Occupation.
 - the effect of the developments on the character and appearance of the area.
 - the effect of the developments on the living conditions of the occupiers of neighbouring dwellings, with particular regard to the management of the HMOs, noise and disturbance and on street parking pressure.
 - whether the developments provide adequate accommodation for occupants, with regard to the size and standard of accommodation.
 - parking and highway safety.

Reasons

Identified Need

9. Policy BH7 of the Brent Local Plan 2022 (Local Plan) sets out that proposals for student accommodation, non-self-contained or self-contained residential accommodation with shared facilities or on-site support/care to assist residents in their daily lives will be supported subject to several criteria. One of the criteria is to demonstrate a specific need for the particular use within this borough.
10. Paragraph 6.2.68 of the Local Plan also states that the Council will seek to ensure that, except for students, the accommodation proposed is addressing a Brent

population specific need. The advice and guidance in SPD2 states that HMOs perform an important part in housing people within the borough, but it is likely to compete for the same properties with families who also need 3 bedroom dwellings or larger. The need for this family accommodation is also significant within the borough.

11. The appellant accepts that the proposed change of use of the properties results in the loss of purpose-built family dwellings within the borough, but claims they address the acute shortage of accommodation for individuals at an affordable rate. I accept that there is likely to be a general need for a variety of housing to meet growing population needs in Brent. However, aside from the fact that all three properties are close to their capacity in respect of the HMO licence (10 occupants), the appellant has provided no firm evidence to demonstrate that there is a specific Brent need for this type of accommodation.
12. Consequently, I find that the developments subject of Appeal A, Appeal B and Appeal C are contrary to Policy BH7 of the Local Plan, and the advice and guidance set out in SPD2, which requires the demonstration that there is a specific Brent need for the particular use being carried out.

Character and Appearance

13. Woodhill Crescent largely consists of detached and semi-detached properties of a comparable scale and design fronting the road with appreciable spacing in between. Most, if not all of the properties have off road parking and good sized rear garden spaces. Based on the limited evidence I have before me and my site visit, Woodhill Crescent comprises low density housing in use as single family dwellings in an urban residential setting. There are no parking restrictions on Woodhill Crescent other than yellow lines. However, due to many of the properties having off street parking, there was limited on street parking availability.
14. All three properties subject of the appeals are situated together on a private road, set back from public vantage points on Woodhill Crescent. Appeal A, Appeal B and Appeal C properties do not include any significant alterations to the buildings, and all retain the form of a single dwelling externally. In this regard, the set back of the dwellings limits the impact on the street scene and the appearance of the buildings is not out of keeping with the overall residential appearance of the street scene.
15. However, criterion (e) of Policy BH7 of the Local Plan requires developments to not lead to an over-concentration of this type of accommodation in the area. For HMOs an over-concentration is defined as three or more of the ten nearest properties in use as HMOs. Paragraph 6.2.70 of the Local Plan indicates that this is measured by taking the nearest front entrances when walking from the front door of the application property. The Council have indicated that the properties subject of the appeals when coupled with the adjoining properties at 18 and 20 Woodhill Crescent, would result in a group of five HMOs.
16. The use of five neighbouring properties as HMOs is an over-concentration that would be contrary to the criterion (e) of the policy. Further to this, even if I were to consider each appeal property individually and discount the other two as unlawful, one of the appeal properties together with the existing two would amount to three out of ten properties being HMOs. This would still be an over-concentration of the use, contrary to the requirements of the policy.

17. Although the proposals individually or cumulatively would run counter to the threshold (three or more of the nearest ten properties), it is necessary to demonstrate that harm is caused to the character of the area. Paragraph 6.2.65 of the Local Plan states adverse impacts are more likely where there are concentrations of one or more of these types of accommodation in an area. Common issues can include noise and disturbance associated with intensification of the residential use and/or occupant lifestyles; on-street parking pressure; transient populations replacing settled family occupants; social cohesion impacts; changes in supporting community infrastructure such as shops; external alterations undermining clear local character; and poor waste management.
18. The HMOs at Appeal A, Appeal B and Appeal C currently accommodate 8, 9 and 10 occupants respectively, with all being licensed to a maximum of 10. Unrelated individuals are less likely to function as a single household, therefore, each occupier is likely to have different schedules, make separate trips and receive individual visitors and deliveries. This results in a marked increase in comings and goings at different times of the day and night when compared to a single dwelling of this size. The increased comings and goings from all three HMOs, or even an additional one, results in an intensification of the residential use, which is at odds with the residential character of Woodhill Crescent describe above.
19. As such, the developments individually, or combined, result in an overconcentration of HMOs, which adversely impacts on the character of the area. The developments are contrary to the aims and objectives of Policies DMP1 and BH7 of the Local Plan, as well as the advice and guidance in SPD2 and the Brent Design Guide (SPD1), which require developments to be of a use, concentration and design that provides high levels of internal and external amenity and complements the locality.

Living Conditions of Neighbours

20. With respect to the neighbour's living conditions, noise and disturbance from activity from within the properties is likely to be sufficiently mitigated by the separation distances.
21. However, the private road to the appeal properties is gated, restricting vehicle access by visitors, and encouraging parking in Woodhill Crescent. In this context, residents on Woodhill Crescent are going to be frequently exposed to the activity associated with the increased vehicular movements to and from the site. This might include raised voices, the slamming of car doors or the start-up of a car engine at unsociable times, which would be more prevalent and harmful to their living conditions. This issue is exacerbated by the limited on-street parking availability and lack of parking restrictions on Woodhill Crescent.
22. These issues are evident by the complaints received by the Council and the representations submitted as part of the three appeals. Most representations outline, amongst other things, that the overconcentrated use of the properties has resulted in a marked increase in the number of comings and goings from the properties. This has led to issues of anti-social behaviour, noise and disturbance, particularly in the summer, overflowing bins and an increase in pressure for on-street parking on Woodhill Crescent.
23. The appellant has indicated that tenants are vetted in respect of their previous conduct before being granted a tenancy to avoid anti-social behaviour. All areas

are kept in a clean condition and working order, and there is sufficient waste provision, security locks for the doors and on-site vehicle and cycle parking.

24. I acknowledge that some elements associated with the use could be managed. However, it is apparent that despite these controls being in place for some time, the scale of the intensified uses at the three properties has resulted in a level of activity that has had a detrimental impact on the living conditions of the neighbours.
25. Accordingly, the developments individually, or combined, result in an overconcentration of HMOs, which impact on the living conditions of the neighbours by virtue of increased comings and goings leading to noise and disturbance and on street parking pressure. The developments are contrary to the aims and objectives of Policies DMP1 and BH7 of the Local Plan, as well as the advice and guidance in SPD2 and the Brent Design Guide (SPD1), which require developments to be of a use, concentration and design that provides high levels of internal and external amenity and complements the locality.

Adequate Accommodation for Occupiers

26. Policy BH7 of the Local Plan states that HMOs must meet the standards of Brent's HMO licensing scheme, including minimum room sizes. SPD2 outlines in paragraph 5.11, that given the importance of the rooms as private spaces to HMO occupants, the net internal floorspace standards of Policy D6 of the London Plan 2021 (London Plan) are considered the minimum acceptable to gain planning permission.
27. The Council also indicates that the premises represent a poor quality of accommodation due to a lack of a management plan for waste disposal, garden maintenance, a lack of personal, bin and cycle storage and a lack of outdoor amenity space. I was able to see inside all the rooms at my visit, and floor plans have been provided. From what I saw on site, the floorplans are largely consistent with the layout that I saw.
28. It seems to me that all rooms in the property subject of Appeal A meet the standards set out within Policy D6 of the London Plan. With respect to Appeal B, two of the single rooms are marginally below the 7.5 square metre floorspace required and one single room is marginally below in the property subject of Appeal C. Despite some rooms being marginally below in two of the appeal properties, the rooms had a bed, storage and adequate light and space. There is also access to a large kitchen and dining area in all properties. Furthermore, all have direct access to their own large rear garden and there is adequate space for bins and cycle storage in each garden.
29. Given the size of the dwellings, the reasonable size of the rooms, the adequate communal spaces as well as the gardens and storage spaces, I find the accommodation in all properties provide adequate living conditions for the occupants. Therefore, despite the slight conflict of Appeal B and C with Policy D6 of the London Plan in respect of minimum room sizes, I have identified no harm. The appeals comply with the aims and objectives of Policies BH7, DMP1 and BH13 of the Local Plan, and the advice and guidance in SPD2, in respect of the standard of accommodation and external amenity space for occupants.

Parking and Highway Safety

30. Policy BH7 of the Local Plan requires the development to be in an area with good access to public transport and other amenities, including shops (normally within 400m). The SPD2 expands on this and indicates in paragraph 5.3 that a HMOs Public Transport Accessibility Level (PTAL) must be a minimum of 3, when considered against Transport for London (TfL) PTAL methodology.
31. Policy BT2 of the Local Plan states that developments should provide parking consistent with parking standards in Appendix 4 of the Local Plan. At paragraph 8.4.8 of Appendix 4, it indicates that parking provision for HMOs should base the parking provision on the number of bedrooms with a maximum standard of one space per 10 beds. Policy T6 and Table T6.1 outlines similar requirements but does not specifically refer to conversions of housing to HMOs. The accompanying table (10.3) in the London Plan indicates houses with three or more beds in outer London with a PTAL rating of 0-1 should have a maximum of 1.5 spaces per dwelling.
32. With a PTAL rating at 0 (zero) the Council is concerned that occupants of the HMOs would need to travel further to access public transport as well as other services and facilities. In this respect, the Council considers that the accessibility of the site is more likely to result in occupants owning a private car, which increases on-street parking pressure to the detriment of highway safety.
33. The appellant has provided plans that show each development could secure their own cycle parking in the garden. Each property has a double garage, with adequate parking space for an additional two cars in the driveway. Each statement also indicates that only two occupants have a single car whereas others have motorcycles or cycles.
34. I recognise that if all occupants of the appeal properties had cars, then the parking demand would be significant. However, considering the type of accommodation and evidence provided by the appellant, the accommodation is aimed at people with limited accessibility to personal transport. Also, despite the low PTAL score, there is a bus stop within walking distance (500m) on Woodcock Hill. From what I saw on site, it is also a short cycle to a parade of shops and a large supermarket. Further to this, each property has access to a minimum of two existing off street parking spaces, which would satisfy the parking standards set out above.
35. The parking provision is existing and based on the size and nature of the proposed accommodation together with the accessibility of the site, I am of the view that two off street parking spaces per HMO would be acceptable. Furthermore, while it is noted that the use has resulted in an increase of parking pressure to the detriment of the neighbour's living conditions, there is limited evidence before me to demonstrate that this has led to indiscriminate parking to the detriment of highway safety.
36. Accordingly, despite a technical conflict with part a) of Policy BH7 of the Local Plan, I find that no harm would arise in respect of highway safety. There would be no significant conflict with aims and objectives of Policies BH7 and BT2 of the Local Plan or Policies T6 and T6.1 of the London Plan in respect of accessibility and parking provision. The developments would also be compliant with paragraph 111 of the Framework regarding highway safety.

Other matters

37. The Council refer to Policy BH11 of the Local Plan in its reason for serving the Notice. This policy seeks to retain family sized homes in the area by permitting conversions of larger dwellings to two or more other dwellings subject to certain criteria. Although I appreciate that the Council see the development as a loss of a family home, the development would not result in two or more other dwellings being created. As such, this policy is not relevant to the development alleged.

Conclusion

38. For the reasons given above, I conclude that Appeal A, Appeal B and Appeal C should not succeed. I shall uphold the notices with variations and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decisions

39. It is directed that the notices in Appeal A, Appeal B and Appeal C are varied by:

In Schedule 4, Step 2, delete the words 'Remove all partition walls, fittings and fixtures facilitating the unauthorised change of use, from the premises and remove all associated items, debris and materials, arising from this removal, from the premises, so that the internal layout of the premises is returned back to a single family dwellinghouse.' Substitute with the words 'Remove all partition walls, fittings and fixtures facilitating the use as an HMO from the premises and return it to its previous condition.'

40. Subject to the variation, the appeals are dismissed, and the enforcement notices are upheld. Planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

M. P. Howell

INSPECTOR