



Appeal Decision

Site visit made on 25 September 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/Q5300/W/23/3320070

45 Swan Way, Enfield EN3 7HZ

- 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 Cheifetz, Axis Property Holdings Limited against the decision of the Council of the London Borough of Enfield.
 - The application Ref 23/00406/FUL, dated 8 February 2023, was refused by notice dated 5 April 2023.
 - The development proposed is change of use of existing dwelling-house (Class C3) to a 6 room HMO for the use of 6 individual tenants.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing dwelling-house (Class C3) to a 6 room HMO for the use of 6 individual tenants at 45 Swan Way, Enfield EN3 7HZ in accordance with the terms of the application, Ref 23/00406/FUL, dated 8 February 2023, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for cost was made by Cheifetz, Axis Property Holdings Limited against the Council of the London Borough of Enfield. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the proposed development would provide appropriate living conditions for future occupiers, with regard to communal living space, layout, outlook and natural light.

Reasons

4. 45 Swan Way comprises of a two-storey end terrace house, with accommodation provided within the roof space by way of a rear dormer. The property has also been extended by way of single and two storey rear extensions, and a single storey side extension. To the side of the building runs a gated pathway which provides shared access to the rear garden of the appeal site, and the rear gardens of a number of neighbouring properties.
5. Both parties have referred to the Enfield Council HMO Standards, for bedsit / letting rooms and shared house accommodation (2021) (herein referred to as the 'HMO standards'). However, this document states that planning permission cannot be guaranteed by compliance with these standards, and that the standards may vary between the Housing and Planning Departments.

6. As such, this document is used for licensing purposes and is not an adopted planning document. It is therefore not decisive in the consideration of this appeal, but is a helpful guide when assessing such proposals for planning purposes and thus I have used this document accordingly.
7. The HMO standards set out the definitions of the different types of accommodation within a HMO, and this includes 'Letting rooms / self-contained room' where *"...there is some exclusive occupation such as a letting room where there is some sharing of amenities such as a kitchen/bathroom or a self-contained letting room with exclusive use of a kitchen area and bathroom within the room"*.
8. This description is different to the HMO standards definition of a 'Shared house' which states *"...there is evidence that the occupiers are living more like a single household and are comfortable using shared communal space, rather than individuals who have very little interaction with each other..."*.
9. The appeal proposal would provide six bedrooms, all of which would include their own exclusive kitchen area, and occupiers would share a total of five bathroom / shower rooms, as well as having access to shared laundry facilities. As such, I interpret that the appeal proposal would fall under the definition of 'Letting rooms / self-contained room' within the HMO standards.
10. The HMO standards also set out the space standards for a self-contained room with its own kitchen facility, and the minimum floor area for a one-person room is 10.2m². The smallest of the proposed rooms in the appeal scheme would be 17.2m², and therefore the proposal would comfortably adhere to this space standard. Furthermore, the HMO standards state that a self-contained room with its own kitchen area must have, amongst other items, a fixed 2 hob cooker with oven and grill, a fridge, and a sink. The appeal proposal includes details to show that each kitchen would meet these requirements.
11. In respect of bathroom and shower facilities, the HMO standards states that one bathroom with a wash basin and bath or shower must be provided for every five occupants. Thus, for the HMO proposal which would provide six single occupant bedrooms, two bathrooms would be required. Furthermore, the guidance states that two shared toilets would be required for six occupants. As mentioned earlier the proposal includes a total of five bathroom / shower rooms, which all include toilets, in accordance with this guidance.
12. In view of the above, the proposal would comply with the requirements of the HMO standards. However, as mentioned earlier, whilst the HMO standards are a useful guide, they are not decisive in the determination of a planning application, or an appeal, and an element of planning judgement must still be made on the overall living conditions of future occupiers in accordance with the relevant planning policies.
13. Whilst I acknowledge that the rooms are larger than those required by the HMO standards, occupants would not be provided with a shared internal space for socialising, and such spaces are important for the wellbeing of residents. However, in this particular case, the appeal site has a relatively large rear garden area that would be shared by residents. I consider this outdoor space to be an adequate provision of shared communal space which, along with the large size of the bedrooms where smaller groups could gather, would provide

appropriate living conditions for future occupiers in terms of the provision of communal facilities.

14. In addition to the above, the Council's reason for refusal also states that the proposal, by virtue of comprised layout, poor outlook and natural light, would give rise to a substandard form of accommodation that would be detrimental to future occupiers. The Officer report and appeal statement confirm that these concerns relate to proposed Bedsit 3 on the ground floor.
15. This bedroom (Bedsit 3) would measure 17.2m² and is arranged to provide suitable living accommodation in terms of its layout. With regard to outlook and natural light, this room would be served by a window in the side elevation and a set of double doors in the rear elevation. The submitted plans do not specify that the double doors in the rear elevation would be glazed, however the appellant has subsequently confirmed that these doors are glazed patio doors, and I observed as such on site. Furthermore, whilst on site I noted that an additional window has been installed in the side elevation of this room, compared to what is shown on the plans.
16. On the basis that the doors in the rear elevation are patio doors, as confirmed by the appellant, the occupiers of Bedsit 3 would be provided with an appropriate outlook and acceptable levels of natural light. In addition, all other bedrooms would also be provided with an acceptable outlook, and level of natural light, through window and door openings.
17. In view of all the above, I conclude that the future occupiers of the proposed development would be provided with appropriate living conditions. Consequently, I find no conflict with Policy D6 of the London Plan (2021), Policies CP4 and CP30 of the Enfield Core Strategy (2010), and Policies DMD5, DMD6, DMD8 and DMD37 of the Enfield Development Management Document (2014), which seek to ensure, amongst other things, that development proposals are of a high design quality, provide a high quality form of accommodation, are suitable for the intended purpose, and meet the minimum standards of accommodation.
18. Furthermore, the proposal would also comply with paragraph 130(f) of the National Planning Policy Framework where it seeks to ensure development provides a high standard of amenity for future occupiers.
19. I note that the Council's reason for refusal includes London Plan Policy D4, however the Council's submissions do not provide any analysis or assessment of how the proposal would conflict with this policy, or its relevance to the main issue. Consequently, I have found no conflict with this policy in respect of the main issue.

Other Matters

20. A third party has raised the issue of car parking and the extra demand for on-street parking that will arise from the proposed use as a six-person HMO, in an area which, in their opinion, does not benefit from good public transport links compared to other parts of London.
21. The proposal would retain two existing off-street parking spaces to the front of the property and the Council considered this matter in the determination of the application, and did not raise a concern. I have no substantive reason to disagree with the Council on this issue.

22. Reference has also been made to the blocking up of the public path between the appeal property and the neighbouring dwelling at 43 Swan Way, as well as an assertion that this path has been shortened. These are private land use considerations and are not matters that I can take into account in the determination of this appeal.

Conditions

23. The Council has provided a list of suggested planning conditions, which I have considered against paragraph 56 of the Framework, and advice contained in the Planning Practice Guidance.
24. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). Furthermore, in the interest of certainty and to ensure a satisfactory standard of accommodation for future occupiers a condition has been included which limits the number of occupants of the HMO to a maximum of six people, and prevents the change of use of each room to a self-contained unit (3).
25. A condition has been attached which requires the hardsurfaced area to the front of the property to be retained for the parking of two motor vehicles, and this is necessary to provide sufficient off-street parking in the interest of highway safety (4). Conditions have also been added requiring the provision of refuse storage facilities (5) and secure cycle parking spaces (6). These two conditions are required to safeguard the character and appearance of the area and to support the use of sustainable modes of transport, respectively.
26. A condition requiring the development to achieve Secured by Design accreditation has been included and this is considered necessary to reduce the risk of crime (7).

Conclusion

27. For the reasons given above, and having regard to all matters raised, the proposed development would accord with the development plan when taken as a whole and there are no material considerations that indicate it should be determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

R Major

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 45SW/APH/OS Rev A
 - 45SW/APH/BP Rev A
 - 45SW/APH/P1/1 Rev A
 - 45SW/APH/P2/1 Rev A
 - 45SW/APH/P3/1 Rev A
 - 45SW/APH/P4/1 Rev A
 - 45SW/APH/P5/1 Rev A
 - 45SW/APH/P6/1 Rev A
 - 45SW/APH/P7/1 Rev A
 - 45SW/APH/P8/1 Rev A
 - 45SW/APH/P9/1 Rev A
 - 45SW/APH/P10/1 Rev A
3. The use of the property as a House in Multiple Occupation hereby approved shall be occupied by a maximum of 6 people at any one time and shall not be subdivided or occupied as self-contained units.
4. The existing hardsurfaced car parking area, to the front of the property, shall be retained in perpetuity for the parking of two private motor vehicles.
5. The development hereby approved shall not be occupied until details of the siting and design of the refuse storage facilities have been submitted to and approved in writing by the Local Planning Authority. The refuse storage facilities shall be provided in accordance with the approved details before the development is first occupied and retained as such thereafter.
6. The development hereby approved shall not be occupied until details of the siting and design of five long stay, and two short stay, secure cycle parking spaces have been submitted to and approved in writing by the Local Planning Authority. The cycle parking spaces shall be provided in accordance with the approved details before the development is first occupied and retained as such thereafter for use by the occupants of, and visitors to, the development.
7. Prior to the first occupation of the development hereby approved, a scheme detailing how the development will achieve Secured by Design accreditation shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and operated in complete accordance with the approved scheme and retained as such thereafter.

*****END OF CONDITIONS*****