



Appeal Decision

Site visit made on 5 September 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/M5450/W/23/3316618

93 Headstone Road, Harrow HA1 1PG

- 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 Qasim Gulamhusein, ATF Construction, against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4068/22, dated 29 November 2022, was refused by notice dated 31 January 2023.
 - The development proposed is for change of use from C4 small House in Multiple Occupation for up to 6 people to large House in Multiple Occupation (Sui Generis) for up to 7 people.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Qasim Gulamhusein, ATF Construction, against the London Borough of Harrow. This application is subject of a separate Decision.

Preliminary Matters

3. At the time of my site visit internal work was being undertaken within some rooms at the appeal property and neither the existing nor proposed floor plans are consistent with the layout I observed. As such, I have determined the appeal on the basis of the submitted plans.

Main Issue

4. The main issue is whether the proposed development would provide appropriate living conditions for future occupiers, with regard to internal and external communal living space, privacy and outlook.

Reasons

5. The appeal property comprises a two-storey end terrace house, with accommodation provided within the roof space by way of a large rear dormer. The evidence is that the property is currently in use as a six-person small House in Multiple Occupation (HMO).
6. To the rear of the property is a relatively long and narrow rear garden area, and according to the submitted documents the rear garden area is currently solely designated to the occupant of the rear ground floor bedroom (Bedroom 3).

However, the appeal proposes that this rear garden would become a shared communal outdoor space for all residents.

7. Bedroom 3 would have a set of patio doors, with full length windows either side, directly facing out onto the proposed communal outdoor amenity space. The shared communal garden would be set up to the rear of this bedroom and thus users of the garden would have a clear view into Bedroom 3 through the patio doors and windows. As discussed below the rear garden would be relied upon to some extent to provide the communal living space for the HMO occupants. It is therefore more likely that the rear garden space would see significant use for socialising and activities such as drying clothes. The proximity of the patio doors and windows would unacceptably harm the outlook and privacy of the occupier of Bedroom 3 when the rear garden area is in use, to the detriment of their living conditions.
8. The appellant's statement implies that Bedroom 3 would have exclusive access to a 2m deep amenity space directly to the rear of the patio doors, and this would be separated from the communal garden area by a 1.8m high fence. However, the submitted block plan does not show that the amenity space would be subdivided.
9. It may be possible to attach a condition to secure the subdivision, but in the absence of a detailed scheme I cannot be certain that such subdivision would provide adequately for the occupants of the HMO, whilst protecting the living conditions of the occupants of Bedroom 3 and the Council's Supplementary Planning Document – Residential Design Guide (December 2010) seeks to ensure that in all cases the configuration of communal amenity space must be carefully considered.
10. The Council state that use of the rear communal garden area would also result in a loss of privacy for the occupiers of Bedroom 2, however the door serving this bedroom would be recessed from the proposed shared outdoor amenity space and thus the relationship is acceptable.
11. In respect of access, the occupants of Bedrooms 2 and 3, both at ground floor, would be provided with direct access to the proposed shared outdoor garden area via external doors situated within their rooms. Other residents would need to leave the building by the front entrance and use the public footway to gain access to the rear garden via a side gated alleyway.
12. Users of the side access alleyway would walk close to the ground floor bay window in the front elevation serving Bedroom 1. While I note the Council's concerns in this regard and the appeal decisions brought to my attention, occupants accessing the rear garden via the alleyway would have no greater impact upon the occupiers of this bedroom than that currently experienced from general comings and goings to the site, or by members of the public using the public footway.
13. Using the side alleyway to access the proposed outdoor amenity space would also involve walking past the proposed door serving ground floor Bedroom 2. Due to the topography of the site this door would be positioned on a higher level than the side alleyway and views into this bedroom when using the alleyway for access would be restricted. Furthermore, the existing boundary fence would provide some screening between this door and the side alleyway.

14. Internally the appeal proposes that the bedroom, shower room and home office area at second-floor level, measuring 35 square metres, would be occupied by two people, rather than one as existing.
15. Both parties have referred to the Council's HMO Amenity Standards¹ document. Whilst this document contains general advice and suggested minimum specifications for the licensing of a HMO, it is also a useful guide for assessing such proposals for planning purposes. Accordingly, I have applied this guidance.
16. This guidance states that a bedroom serving one person must not be less than 6.51 square metres, and a bedroom for two people must not be less than 10.22 square metres. With the proposed bedrooms ranging between 14.61 – 20.83 square metres in size, the proposal would adhere to these recommended standards.
17. Notwithstanding the above, the proposed additional occupant arising from the change of use would intensify the use of the property, and the only communal area provided for residents would be the first-floor communal kitchen area. The Council's HMO Amenity Standards require a communal kitchen area for seven occupants to measure 14 square metres, and that all bedrooms to be within one floor distance of the kitchen.
18. The proposed communal kitchen would measure 15.42 square metres and being situated at first floor level, would be within one floor distance of all bedrooms. As such the size and location of the communal kitchen area would accord with the Council's HMO Amenity Standards document.
19. The kitchen however would not be of an adequate size to provide a shared space for socialising or seating. However, I note that the bedrooms are significantly above the licensing standards such that rooms would be afforded some individual living space, and I observed on site that some occupants had a small sofa in their bedrooms. Whilst the property would lack some internal communal space, given the size of the individual bedrooms I concur with my colleague in a recent appeal² that the provision and access to external amenity space would be sufficient communal space in this case.
20. Whilst I am satisfied that together the bedroom sizes, external amenity space and kitchen provide sufficient communal / social space for the use of the HMO occupants, the appeal proposal would not provide an acceptable standard of living conditions for the occupiers of Bedroom 3 in conflict with Policies DM1, DM27 and DM30 of the Harrow Development Management Policies (2013) and Policy D3 of the London Plan (2021). These policies, amongst other things, require that all proposals must achieve a high standard of design and layout, and provide satisfactory living conditions.
21. Furthermore, the proposal is also in conflict with paragraph 130(f) of the National Planning Policy Framework, where it seeks to ensure a high standard of amenity is provided for existing and future users.
22. The Council's reason for refusal also refers to Policies D6 and H9 of the London Plan, however the standards referred to within Policy D6 relate to new self-contained dwellings, and Policy H9 relates to safeguarding the loss of existing HMOs. These policies do not specifically relate to the living conditions of

¹ Harrow Houses in Multiple Occupation Amenity Standards May 2020

² APP/M5450/W/22/3311098

occupiers within larger HMOs, and are therefore not determinative in relation to this appeal.

Other Matters

23. The appellant has referred to an extant permission, to convert the appeal property into two self-contained flats. Based on the information before me, both the proposed self-contained flats would be provided with separate and independent outdoor amenity areas. As such I do not consider that the extant permission for flats and this appeal proposal are directly comparable.

Conclusion

24. I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight that indicate the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

R Major

INSPECTOR