

Appeal Decision

Site visit made on 7 November 2023

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/Y5420/C/22/3308100
93 Mount Pleasant Road, London N17 6TW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Kypros Kyprianou (Goldeneye Estates Limited) against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 15 August 2022.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use to a C4 HMO (house in multiple occupation).
 - The requirements of the notice are to:
 1. Cease the use of the property as a house in multiple occupation.
 2. Remove from the site all debris arising from compliance with step 1.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (g) of the Town and Country Planning Act 1990 as amended. Since an appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at 93 Mount Pleasant Road, London N17 6TW, as shown on the plan attached to the notice, for a C4 HMO (house in multiple occupation).

The ground (a) appeal and deemed planning application (DPA)

Procedural Matter

2. I found on my site visit that the appeal property is larger than indicated in the floor plans provided by the appellant¹ due to the addition of a ground floor rear extension.

Main Issues

3. The main issues in the appeal are the effect of the development upon:
 - the provision of family dwellinghouses in the Borough;
 - the living conditions of neighbouring occupiers, as regards noise and disturbance; and
 - the highway, as regards litter from overflowing waste bins and bags.

¹ Appendix 6 of Grounds of Appeal

Reasons

4. Policy DM17 of the Haringey Development Management Development Plan Document (2017) (DPD) provides that proposals for HMOs will be permitted if certain criteria are met (A.a-f)².
5. The supporting text for the policy explains that – in response to problems associated with **poor quality** (my emphasis) HMOs – an Article 4 Direction³ has been introduced to remove permitted development rights for the conversion to small HMOs in the East of the Borough (where there is an overconcentration). However, it emphasises that:

HMO accommodation plays an important role in meeting particular housing needs, especially for low income residents, young people and those needing temporary accommodation⁴.

6. Therefore, given these benefits, all planning applications for HMOs should be carefully considered upon their individual merits and it should not be assumed that they will be either poor quality or create problems. Rather, as the supporting text refers⁵, the acceptability of HMO proposals should be assessed against the above policy criteria.
7. The appeal property is a relatively large one which was once used to accommodate a community of Catholic nuns. I am satisfied from my site visit and from the annotated floor plans provided that, notwithstanding subsequent enlargements⁶, the gross original internal floor space is greater than 120m² (criteria A.a). This finding of fact is supported by the Energy Performance Certificate from January 2016 (on acquisition of the property by the appellant and before later enlargements) which gives the total floor area of 179m². In the face of this evidence, while the Council states that the gross internal area of the property is approximately 117m², it has not shared with me at a level of sufficient detail how it has arrived at that figure. I therefore give that assertion very limited weight and find, taking all the evidence into account, that criteria A.a is met and that (like the Inspector determining the appeal made in respect of the neighbouring property at 91 Mount Pleasant Road⁷) the appeal property is not suitable for a small family dwelling.
8. Criteria A.b requires that HMO conversions do not give rise to any significant adverse amenity impact(s) on the surrounding neighbourhood, including cumulative impacts arising from an over-concentration of HMOs within an area. I have seen no evidence, including from the Council or third parties, to indicate that *this* HMO gives rise to any adverse amenity impacts – including noise and disturbance. It therefore does not add to any cumulative problems in the East of the Borough. Indeed, the evidence suggests (including an apparent absence of complaints) that this is a well-run⁸ licenced HMO causing no more impact on amenity than use as a family dwellinghouse.

² In error, the Council has cited Policy DM16 'Residential Conversions' in Section 4 of the enforcement notice ('Reasons for issuing this notice'). The appeal development alleged in the notice is not a conversion into self-contained homes. Therefore, the matter of whether or not the property lies within a 'Family Housing Protection Zone' – which relates to that policy but not to DM17 – is not relevant in the determination of the appeal.

³ The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

⁴ 3.38

⁵ 3.39

⁶ Including those relating to the Development Management History on page 3 of the Council's Statement.

⁷ APP/Y5420/C/11/2158188

⁸ Weekly management checks; Tenancy agreements prohibiting car parking (relevant to the parking impacts referred to in the Council's supporting documentation where there are overconcentrations of HMOs).

9. Having digested the Council's supporting documentation I am also mindful that licenced HMOs such as the appeal property can be subject to enforceable controls upon their use and management, including regards such matters as anti-social behaviour and refuse arrangements. The latter appeared to be in order on my site visit, and again there is no evidence I have seen that this particular HMO does not have adequate and convenient refuse storage (Criteria A.e) or that it impacts adversely upon the highway as regards litter from overflowing waste bins and bags.
10. I have seen no evidence that the development does not meet the other criteria within Policy DM17, which are not main issues of dispute between the parties, and accordingly have no good reason to find that they are not so met.

Conclusion

11. For all of the above reasons, the appeal development does not conflict with Policy SP2 of Haringey's Local Plan Strategic Policies 2013-2026 (2013⁹), Policies DM12 and DM17 of the DPD and Policy D6 of the London Plan (2021), as supported by the London Mayor's Housing Supplementary Planning Guidance (2016), which together seek to ensure housing development meets needs and is of a high standard which does not harm amenity.
12. The appeal development accords with the development plan as a whole, and there are no other considerations which outweigh this finding.
13. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. As the notice is quashed, the appeal on ground (g) does not therefore need to be considered.

Andrew Walker

INSPECTOR

⁹ Consolidated with alterations since 2017