



Appeal Decision

Site visit made on 14 May 2024

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2024

Appeal Ref: APP/M5450/W/23/3332879

108 Imperial Drive, North Harrow, Harrow HA2 7HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mean3 UK Limited against the decision of Harrow Council.
 - The application Ref P/0816/23, dated 17 March 2023, was approved on 11 May 2023 and planning permission was granted subject to conditions.
 - The development permitted is the conversion of a dwelling into two flats (1 x 3 bed) and (1 x 2 bed); single and two storey side extension; single and two storey rear extension; front porch; alterations to roof; rear dormer; rooflights in front and side roofslopes; landscaping; external alterations (demolition of porch and detached garage).
 - The condition in dispute is No 10 which states that: The development hereby permitted shall be used for Class C3 dwellinghouse(s) only and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Schedule 2, Part 3, Class L shall take place.
 - The reason given for the condition is: To enable the Local Planning Authority to fully consider the effects of development normally permitted by the Town and Country Planning (General Permitted Development) Order 2015 to maintain mixed, balanced, sustainable and inclusive communities and in the interests of residential and visual amenity.
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Decision

1. The appeal is allowed and the planning permission Ref P/0816/23, for the conversion of a dwelling into two flats (1 x 3 bed) and (1 x 2 bed); single and two storey side extension; single and two storey rear extension; front porch; alterations to roof; rear dormer; rooflights in front and side roofslopes; landscaping; external alterations (demolition of porch and detached garage) at 108 Imperial Drive, North Harrow, Harrow HA2 7HT granted on 11 May 2023 by Harrow Council, is varied by deleting condition No 10.

Application for costs

2. An application for costs was made by Mean3 UK Limited against Harrow Council. This application is the subject of a separate decision.

Background

3. Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) ('GPDO') permits changes of use from dwellinghouses (Class C3) to small Houses in Multiple Occupation (Class C4) ('HMO') and vice versa.

4. Paragraph 55 of the National Planning Policy Framework ('Framework') states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of planning conditions. It continues at paragraph 56 that planning conditions should be kept to a minimum, and that they should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.
5. The Planning Practice Guidance ('PPG') on the Use of Planning Conditions advises at ID: 21a-017-20190723 that conditions restricting the future use of permitted development rights or changes of use may not pass the tests of reasonableness or necessity; and that area-wide or blanket removal of freedoms to carry out small scale alterations that would otherwise not require an application for planning permission are unlikely to meet those tests.
6. The Council's delegated application report ('DR') does not explain why condition No 10 was imposed and, unlike many of the other conditions, the reason given for this condition in its decision notice ('DN') does not make reference to the development plan. I have therefore framed the main issues in this appeal having regard to the reason for the condition as set out in the DN, and I have dealt with additional issues raised in its appeal statement as other matters.

Main Issues

7. The main issues are whether the disputed condition is reasonable and necessary in the interests of:
 - The character of the area, and maintaining mixed, balanced, sustainable and inclusive communities; and
 - ensuring appropriate living conditions for nearby occupiers and appropriate living conditions for the occupants of the proposed accommodation.

Reasons

The character of the area and maintaining balanced and mixed communities

8. The host forms one half of a semi-detached pair, which is located in a residential area of Harrow. I have no information to indicate how residential properties in the area are occupied, including the number or location of any existing HMOs. Consequently, there is nothing before me to indicate that there is a particularly high concentration of HMOs in Imperial Drive or adjacent roads, or that the creation of HMOs in this property could disrupt the balance of the community.
9. The Council asserts that the occupation of this property as two HMOs instead of two flats could result in a significant intensification in its use, as rather than comprising two households, there could be up to twelve, with different functionality and character impacts.
10. The permitted scheme involves the creation of a two bedroom flat and a three bedroom flat. Having regard to Policy D6 of the London Plan 2021 ('LP') and Policy DM26 of the Harrow Development Management Policies 2013 ('HDMP'), the floor area of each bedroom would be sufficient to provide two bed spaces.
11. On that basis, even if the property was to be occupied as two HMOs instead of two flats, the maximum occupancy level would be broadly similar. HMOs are

also characterised by occupants who share various amenities, such as kitchen and bathroom facilities. Consequently, I am not persuaded that there would be substantially different refuse and servicing requirements associated with the use of the property as HMOs compared to its use as flats. The approved plans depict two triple bins stores to the front, and for the above reasons, I have no cogent evidence that they would be insufficient for two HMOs, or that such a use would harm the streetscene.

12. At paragraphs 3.7 to 3.12 of its appeal statement, the Council refers to Harrow Core Strategy 2012 ('HCS') Policy CS 1B and HDMP Policy DM 1, but acknowledges that, whilst they address a range of planning considerations, they do not refer specifically to small HMOs. Amongst other things, and in general terms, those policies do however require development to respond positively to its context, and to avoid detriment to the area's character and appearance having regard to matters including servicing and arrangements for waste and recycling.
13. For the above reasons, I conclude that the disputed condition is not reasonable or necessary in the interests of the character of the area, or to maintain a balanced community, and its deletion would not result in a conflict with those policies. Moreover, the use of the property as HMOs would help to address the Framework's stance regarding the need to provide housing for different groups in the community.

Living conditions

14. There could be some additional comings and goings as a result of the generally more independent living arrangements by the occupants of HMOs compared to flats. However, having regard to the advice in the PPG, the Framework's stance on conditions, and the similar number of potential occupants compared to two flats, I have no persuasive evidence before me to indicate why the particular circumstances at this property in this locality are such that its use as HMOs would harm adjacent occupiers' living conditions; nor, why it would result in inappropriate living conditions within the property.
15. The disputed condition is not therefore reasonable or necessary in the interests of ensuring appropriate living conditions. Its deletion would not therefore conflict with those parts of LP Policy D3 and HDMP Policy DM 1 Parts C and D, which require development proposals to deliver appropriate privacy and amenity, and comfortable and inviting environments, and which resist proposals that would be detrimental to the privacy and amenity of neighbouring occupiers, or which would fail to achieve satisfactory privacy and amenity for the future occupiers of proposed development.

Other matters

16. The Council states in its DR that the disputed condition is necessary given the potential impacts from the property's use as two HMOs on parking, transport and highways, but does not elaborate on what those impacts could be.
17. For my part, I note that the scheme includes off-road parking space to the front and bicycle stores to the rear, and the property is accessible on foot or by bicycle to the nearby facilities and underground station at Rayners Lane. In its DR the Council indicates that the location has good/very good access to public transport. For those reasons, and given my conclusions regarding the

occupancy of the property as two HMOs compared to two flats, I am satisfied that the disputed condition is not necessary in the interests of the safety or convenience of highway users.

18. Finally, both principal parties have cited appeal decisions elsewhere in the borough. In some of those decisions a condition was imposed removing permitted development rights for a change of use from Class C3 to Class C4 of the GPDO, and in others it was not. However, I do not know the full context and details of all those cases, and I have dealt with the proposal before me at this property and in this location, based on the submitted evidence, and on its planning merits.

Conclusion

19. Having regard to the Framework and the PPG, the disputed condition does not meet the tests of reasonableness or necessity, and the development without it would not result in harm to the character of the area, lead to an unbalanced community, or result in inappropriate living conditions.
20. I therefore conclude that the appeal should succeed and I will vary the planning permission by deleting the disputed condition.

Chris Couper

INSPECTOR