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# Appeal Decision

Site visit made on 2 July 2024

**by C Skelly BA (Hons) MSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 August 2024**

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**Appeal Ref: APP/Y5420/W/24/3339635**

**41 Whymark Avenue, Wood Green, Haringey London N22 6DJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Miss Joanna Rogers of S&J Property Investing Partners Ltd against the decision of the Council of the London Borough of Haringey.
  - The application Ref is HGY/2024/0005.
  - The development proposed is change of use from Class C3 Dwelling House to C4 House of Multiple Occupancy: 4 bedrooms for up to a maximum of 6 people.
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## Decision

1. The appeal is allowed and planning permission is granted for change of use from Class C3 Dwelling House to C4 House of Multiple Occupancy: 4 bedrooms for up to a maximum of 6 people at 41 Whymark Avenue, Wood Green, Haringey, London N22 6DJ in accordance with the terms of the application, Ref HGY/2024/0005, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with drawings titled M-1\_A- HMO Comparative Site Plans; M-4\_A-HMO Areas Plans, M-3\_A-HMO Proposed Plans and M-5-HMO Comparative Elevations HMO Applications refuse, recycling and cycle store.
  - 3) The cycle and refuse storage shown on plan M-3\_A-HMO Proposed Plans and M-5-HMO Comparative Elevations HMO Applications refuse, recycling and cycle store shall be provided prior to occupation and thereafter kept available for this purpose.

## Application for costs

2. An application for costs was made by Miss Joanna Rogers of S&J Property Investing Partners Ltd against the Council of the London Borough of Haringey. That application is the subject of a separate Decision.

## Main Issue

3. The main issue is whether or not the proposed conversion of the property to a House in Multiple Occupation (HMO) would be acceptable having regard to whether it is a policy compliant size for conversion and whether it would result in the unacceptable loss of family housing.

## Reasons

4. The appeal site is a mid-terrace two storey dwelling house with small front enclosed garden, located in a residential area. The property currently has two reception rooms and a further kitchen on the ground floor, with a shower room accessed externally, with three bedrooms and a bathroom on the first-floor level.
5. The property is located within an area covered by an Article 4 Direction, which came into force in November 2013 removing permitted development rights for changes of use of C3 (Dwellings) to C4 (HMO) and is also within the designated Family Housing Protection Zone.
6. Policy SP2 of the Haringey Local Plan Strategic Policies 2013-2026 (2013) (SP) sets out the strategic approach to ensure that Haringey's housing needs are met and that it is of high quality.
7. Policy DM17 of the Development Management Plan Development Plan Document (2017) (DPD) supports the conversion of larger homes to HMOs including small HMOs (3-6 unrelated people) within the area covered by the Article 4 Direction where amongst other things the gross original internal floor space of the existing dwelling is greater than 120sqm.
8. The supporting text of Policy DM17 recognises that HMO accommodation plays an important role in meeting particular needs especially for low-income residents, young people and those needing temporary accommodation. The explanatory text goes on to say that a concentration of HMOs could harm local character and reduce the availability of smaller family housing, nevertheless there are no requirements set out in the policy which address this matter.
9. There is a dispute over the size of the original floorspace of the dwelling and whether it would meet with the requirement in Policy DM17 of the DPD that it should be 120sqm. The Council when considering a previous proposal at the pre-application stage accepted that the property met with this overall floorspace requirement<sup>1</sup>, albeit that this is explained that this was based on the information available which was approximate. It appears that the plans the Council considered at that stage were very similar to those presented as part of the planning application which is now the appeal proposal.
10. The plan submitted as part of the planning application, titled "Accommodation Area Plans HMO Application" shows that the gross internal area of the host property is 124.5sqm whilst the total original internal area is shown as 118.8m<sup>2</sup> as this excludes 5.7sqm which is the garden room. There was, therefore, some evidence that the accommodation did not meet the policy requirement. Nevertheless, the Council had already considered this information previously and at the appeal stage commented that it is accepted that where a conversion of a property which is marginally below the 120sqm rule provides a family sized unit that some flexibility can be allowed. I consider that this is an important consideration in this case.
11. A further drawing was submitted as part of the appeal titled "London Lease Plan", without chimney breasts and with the original step out calculation, which excludes a conservatory and shows an approximate gross internal space of

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<sup>1</sup> In terms of the assessment against Policy DM16 of the DPD which has a similar size criteria when considering conversion to flats

- 122.32sqm. This evidence is now available and was not submitted previously because the appellant did not consider that the floorspace was in dispute at that time.
12. On my site visit I noted that although there was an outdoor building in the area shown as the shower room, that there is no building in place where the garden room is indicated on the "Existing Floor Plans". The rear boundary line of the Land Registry Map provided does not show a continuous line and therefore I have considered the "shower room" to be part of the original dwelling but excluded the garden room. Therefore, the internal floor space is calculated as being between 118.8sqm and 122.32sqm.
  13. I give weight to the latest evidence indicating that the floorspace of the dwelling would be policy compliant. Furthermore, I have visited the property and was satisfied that the proposed layout of rooms would provide acceptable HMO accommodation. Even if the internal floor space is at the lower end of the range and falls marginally below 120sqm, I am satisfied that it would not conflict with the overall intention of the policy which is to restrict the change of use of smaller homes to HMOs, because the size, number of bedrooms and layout of the dwelling would indicate it falling within a larger homes category.
  14. The Council has drawn my attention to the appeal at 306 White Hart Lane<sup>2</sup>. However, in this case the Inspector concluded that the internal floorspace, when the rear extension and loft conversion was excluded from the calculations, was significantly below the threshold of 120sqm. This is not the case with the floorspace in this appeal and I consider that the appeal decision at White Hart Lane has limited weight in influencing my assessment of the key issues in this appeal.
  15. Policy DM16 of the DPD says that, in order to maintain a supply of larger family homes to meet Haringey's housing need, that the Council will only permit the conversion of a larger home to small self-contained homes where it is located outside of the Family Protection Zone and the gross internal floor space of the existing dwelling is greater than 120sqm. However, this relates specifically to applications for the creation of self-contained homes (Use Class C3). The proposal is for the conversion from Class C3 (dwelling) to Class C4 (HMO) and therefore I do not consider that this policy directly applies to this situation in this case, and that the most relevant policy to assess the scheme against is Policy DM17 of the DPD.
  16. I acknowledge the comments in paragraph 3.39 of the supporting text to Policy DM17 of the DPD provides some support to the concerns with the loss of family housing as it is said that an issue with HMOs is that they can reduce the availability of small family housing. However, the policy allows the conversion of larger homes to HMOs subject to a range of criteria. It seems to me that the only directly relevant criterion regarding whether a home is small or large is that criterion which concerns the floorspace size and I have found that this aspect of the scheme to be policy compliant. Consequently, I do not consider that the change from a single dwelling to a HMO, with the change from a family dwelling, is a substantive matter that should weigh against the proposal in this case.

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<sup>2</sup> APP/Y5420/W/17/3187331

17. For the reasons outlined above I conclude that the proposed conversion of the property to a HMO would be acceptable because it would be an appropriate size for conversion and would not conflict with the policy approach in terms of the loss of family housing when considering HMOs. Accordingly, I find no conflict with Policy SP2 of the SP or Policy DM17 of the DPD which sets out the approach applicable when considering schemes for conversion of properties to HMOs.

### **Other Matters**

18. The Council's Transportation Team advised that the site has a Public Transport Accessibility Level (PTAL) of 6a, which indicated that access to public transport is excellent. Policy T5 of the London Plan (2021) (LP) requires development to provide cycle parking at least in accordance with the minimum standards set out in the Policy. Table 10.2 says that for C4 uses, 2 spaces are required for residents (long-stay) and 2 spaces for visitors (short stay).
19. The plan titled "Comparative elevations HMO Application" shows cycling storage in the front garden which is large enough for two cycles which would accommodate the required level of residents but not the 2 visitor spaces as set out in Policy T5.
20. I have considered the imposition of a condition to meet the additional requirement for visitor cycle spaces. I have also taken into account the close proximity of the site to Turnpike Lane underground station, nearby bus stops and local services. Whilst not specifically identified on the plans I have no evidence before me that it would not be possible to securely accommodate visitor cycle parking within either the rear garden or inside the property on a temporary basis for the duration of visits. Furthermore, while the proposed cycle store is visually acceptable within the front garden, a larger structure could conversely affect the character and appearance of the area. Consequently, I consider the proposed provision of cycle storage is satisfactory.

### **Conditions**

21. I have considered the Council's suggested conditions and where appropriate amended the wording to more closely align with the Planning Practice Guidance. In the interest of sustainable travel and amenity, I have attached a condition to ensure that the cycle store and refuse storage is provided for prior to occupation.

### **Conclusion**

22. In light of the above analysis, I conclude that the scheme would comply with the development when considered as a whole and that there are no material planning considerations that indicate a decision should be determined otherwise than in accordance with the development plan. Accordingly, I conclude that the appeal should be allowed.

*C Skelly*

INSPECTOR