



Appeal Decision

Site visit made on 6 August 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/A5270/W/24/3337897

8 Strelley Way, Acton, Ealing, London W3 7AR

- 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 Mr Josseron against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 234263FUL.
 - The development proposed is the change of use of dwellinghouse (Class C3) into a House in Multiple Occupation (HMO) with ten bedrooms and ten occupants and provision of ancillary cycle parking and refuse storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is seeking approval for the change of use of residential dwelling (Use Class C3) to a large HMO (Sui Generis). The accommodation is arranged over three floors, providing a total of ten bedrooms. Whilst I accept that the size of the bedrooms within the property means that they would meet the required minimum standards for double occupancy, the appeal scheme is seeking approval for single occupancy of the bedrooms. I have therefore considered the appeal on this basis.
3. I understand from the evidence before me that the use of the appeal property as a large House of Multiple Occupation (HMO) has already commenced. In February 2020, the Council served an Enforcement Notice¹ requiring the use of the property as a large HMO to cease. Both parties have referred me to the planning history of the site, which also includes previous appeal decisions². These appeals against the aforementioned Enforcement Notice concerned the use of both 7 and 8 Strelley Way as large HMOs and both appeals were dismissed, and the respective Enforcement Notices upheld.
4. This current appeal differs in that it is seeking planning permission for a ten-bedroom HMO, with a maximum of ten occupants and relates solely to the use of No.8. I have therefore had regard to the previous appeal decision as a material consideration, insofar as it is relevant to the current appeal scheme.

¹ Enforcement Notice Ref: 20EN0069

² Appeal Refs: APP/A5270/C/20/3248644 and APP/A5270/C/20/3248637

Main Issues

5. The main issues of the appeal are:

- the effect of the use of the appeal property as a large HMO on the living conditions of occupiers of adjoining residential property, having particular regard to noise and disturbance;
- the effect of the use of the appeal property as a large HMO on highway safety, having particular regard to the availability of car parking; and
- whether suitable living conditions have been provided for current and future occupiers of the property.

Reasons

6. The appeal site comprises a two-storey, semi-detached, residential dwelling situated within a small cul-de sac accessed off Gibbon Road. During my site visit, I observed a quiet, pleasant residential area, mainly comprised of single-family dwellings.

Living Conditions – Neighbouring Occupiers

7. As noted above, the appeal site is located in a quiet residential context and although the proposed change of use would remain a residential type of use, due to the total number of occupants, the proposed use would be likely to generate a significantly increased level of comings and goings. This would generate a level of use within the property which would be materially different to that of a single family. Therefore, I find that this level of use would be likely to lead to increased noise and disturbance being experienced by neighbouring properties.
8. There would also be likely to be an increase in vehicle journeys to and from the appeal property, including deliveries and visitors, at a level that is also likely to substantially exceed those that might be expected for a single-family dwelling. This would result in further noise and disturbance. Therefore, having regard to the above, the use of the appeal site as a large HMO would result in a much more intensive use of the property which would be to the detriment of the living conditions of neighbouring occupiers.
9. Consequently, I find that the use of the appeal property as a larger HMO for up to 10 persons, would have an adverse impact on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. Thus, it would be contrary to Policies 7A and 7B of the Ealing Development Management Development Plan Document, adopted December 2013 (DMDPD) which require, amongst other things, development to achieve a high standard of amenity for existing and future users.
10. The Council's reason for refusal also refers to Policy 1.1 of the Ealing Development Strategy 2026 Development Plan Document adopted April 2012 (the Core Strategy). However, this is a strategic vision policy primarily concerned with the supply of new housing, employment land and strategic infrastructure. As such it is not relevant to this main issue.

Highway Safety (Car Parking)

11. The appeal site is located close to the A40, with a PTAL rating of 1a, but lies adjacent to an area with a PTAL rating of 4. The closest bus stop is located on the A40, within five minutes walking distance.
12. There are parking restrictions on Strelley Way in the form of double yellow and single yellow lines. The nearby residential streets are within a Controlled Parking Zone (CPZ) restricting vehicles from parking between 9.30am and 5.30pm (Monday to Friday). The submitted plans show that the appeal site would provide off-street parking for one vehicle immediately to the front of the property.
13. In respect of cycle parking, the submitted plans show that cycle parking would be provided for the benefit of occupants of the HMO, with some parking shown at the front of the property, and further provision within the rear garden only accessible through communal areas of the HMO. The Council concluded that these arrangements were not acceptable. Notwithstanding that there would appear to be sufficient space within the curtilage to provide the required number of cycle spaces, it has not been demonstrated that appropriate levels of cycle parking, for the proposed number of occupants can be provided. Consequently, I am not satisfied that this provision could have been secured by condition.
14. In respect of vehicle movements to and from the site, I accept that due to the nature of the accommodation provided, that car ownership levels may be lower. However, the use as a larger HMO would effectively create additional independent households, who may still require a car or other vehicle to travel to work and carry out other day-to-day tasks. Therefore, notwithstanding the availability of public transport within the local area, it has not been demonstrated that there would not be an increase in demand for car parking in the local area.
15. Policy T6 of the London Plan states that 'car-free development' should be the starting point for all development proposals in locations which are well connected by public transport. As noted above, the closest bus stop is located on the A40, less than five minutes walking distance. However, whilst the appellant has stated that the site would be suitable for 'car-free development', I have not been presented with a suitable mechanism to secure this. Accordingly, I attribute this very little weight.
16. For these reasons, I find that the proposal would be likely to lead to an unacceptable increase in parking pressure outside the hours of the CPZ, particularly during the evenings and at weekends. Thus, it would be contrary to Policy 7B of the DMDPD which requires, amongst other things, development to provide a high standard of amenity for users and adjacent users.
17. It would also be contrary to Policy T5 of the London Plan, which requires appropriate levels of cycle parking to be provided.

Living Conditions – Future Occupiers

18. The appeal property has ten bedrooms, with accommodation provided across three floors. The submitted plans show that all of the bedrooms would be ensuite, with shared communal facilities including, kitchens, a living/dining area and external amenity space provided.

19. The submitted plans show that two kitchens are provided within the property, one on the ground floor, which would have two sets of cooking facilities and a further smaller kitchen on the first floor. The Council's Standards for Houses in Multiple Occupation 2016 state each set shared kitchen should be for the maximum of five persons. Based on the evidence provided by the appellant, the HMO would be occupied by no more than ten persons, meaning that it would comply with these standards.
20. I acknowledge that the Council has raised concerns that there would be insufficient provision for twenty-two persons if all of the bedrooms were occupied on a multiple occupancy basis. However, as approval is not being sought for this level of occupancy, I am satisfied that the provision of kitchen facilities would be adequate for the level of occupancy proposed.
21. The Council has not raised any concerns in relation to any other aspects of the internal accommodation provision nor the external amenity areas. Based on the evidence before me, I see no reason to disagree with these conclusions.
22. However, the proposed number of occupants would be likely to give rise to a scale of activity in communal spaces at the property, including the kitchen, dining/living area, and external amenity areas, which would be likely to cause noise and disturbance to the other occupants of the HMO. This would particularly be the case for the occupants of the ground floor bedrooms, close to the communal areas.
23. For these reasons, whilst I have found that the provision of internal accommodation and external amenity areas would provide adequate living conditions for future occupants, I find that the proposal would not provide adequate living conditions for future occupants, with particular regard to noise and disturbance. Thus, it does not comply with Policy D6 of the London Plan 2021 and Policies 3.5, 7A, 7B and 7.4 of the DMDPD, which require, amongst other things, development to achieve a high standard of amenity for existing and future users, including provision of comfortable functional layouts, which are fit for purpose.

Other Matters

24. My attention has been drawn to examples of large HMOs which have been approved by the Council in the local area, including, 368 Church Road, Northolt³ (No.368) and 93 York Road⁴ (No.3), Acton. In respect of No.368, the appellant states that this approval is comparable to the appeal scheme in that the size of the property, its relationship to adjoining occupiers and its residential setting are similar to the appeal site. No.93 is a mid-terraced property, and so has a similar tight-knit relationship to neighbouring properties.
25. However, whilst I acknowledge there may be some similarities between the appeal scheme and these approvals in terms of their use, I have not been presented with any compelling evidence that they are directly comparable. Furthermore, although both No.368 and No.93 are located in residential surroundings, in general they are located on roads with appreciably higher levels of passing traffic or close to other sources of noise and disturbance,

³ Application Ref: 210120FUL

⁴ Application Ref: 214698FUL

which is not comparable to the location of the appeal property. In any event, each case must be determined on its own individual merits.

26. It has not suggested that the use of No.8 as a larger HMO would lead to an over concentration of HMO uses in the area, as it is acknowledged that the immediate surrounding area appears to be characterised by single family dwellings. However, the Council's concerns relate to the intensification of the use of the property, when considered against the lawful use of the property by a single household. Therefore, the absence of any other HMO uses close by does not weigh in favour of the proposal.
27. I recognise that HMOs can make an important contribution to the supply of mix of housing types, providing an affordable and flexible living accommodation option. I have also had regard to the appellants statement that the HMO is managed to ensure that the property is kept in a good condition, adopts a zero-tolerance policy to anti-social behaviour and carries out regular inspections. However, these matters do not alter my above findings in relation to the harm to the living conditions of neighbouring and future occupiers.

Conclusion

28. For the reasons given, the development does not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR