



Appeal Decision

Site visit made on 23 August 2024

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/A5270/W/24/3339963

34 Kenton Avenue, Southall UB1 3QG

- 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 Mrs Chetna Thakrar against the decision of the Council of the London Borough of Ealing.
 - The application reference is 214466FUL.
 - The development proposed is described as the retention of existing building as large house in multiple occupation for maximum of 8-beds 10 people.
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Decision

1. The appeal is allowed, and planning permission is granted for the use the existing building as a large House in Multiple Occupation for maximum of 8-beds 10 people at 34 Kenton Avenue, Southall UB1 3QG in accordance with the terms of the application, reference 214466FUL, subject to the conditions set out in the schedule to this decision.

Procedural and preliminary matters

2. An application for costs was made by Mrs Chetna Thakrar against the Council of the London Borough of Ealing and this is the subject of a separate decision.
3. The appeal building is in use as a House in Multiple Occupation (HMO), as sought. It is broadly consistent with the details shown on the plans.
4. Retention is not an act of development under the above Planning Act. I have assessed the development as one that seeks retrospective planning permission.
5. The HMO contains 8-bedrooms. The Council's assessment and its main objection largely stem from its view that the HMO could accommodate up to 16 people. However, the description of development given on the application forms lodged with the Council and the decision notice make clear that the HMO would be occupied by up to 10 people. The property is also licensed as a HMO for no more than 10 people. I have assessed the development on that basis.

Main Issue

6. The main issue is whether the HMO provides satisfactory living conditions for its occupiers with particular regard to internal communal space, kitchen facilities and, in relation to Bedroom No 2, light and ventilation.

Reasons

7. There is no dedicated internal communal area within the HMO such as a living room or lounge. However, I saw that the kitchen is open plan and laid out to provide a sofa and small dining table as well as cooking facilities. It is large enough to allow residents to cook, eat, drink, sit and socialise. As such, the kitchen can, and is, used as a communal facility. It appears to be convenient and available to all residents and, in my view, adequately serves their needs.
8. An external door from the kitchen to the rear garden also provides all residents with an access to a pleasant area of outdoor space at the back of the building. I saw that this area is well suited to activities such as sitting out or drying clothes, which could be undertaken individually or with others. It, too, provides a communal area for residents.
9. From the information provided, the size of the kitchen exceeds the Council's minimum space standards. It also meets the Council's requirement that 2 complete sets of cooking facilities be provided to serve up to 10 residents.
10. I observed that Bedroom No 2 is served by a single window that forms the upper part of an external door. While this arrangement is less than ideal, the window is reasonable in size, and it does allow sufficient natural light into the room to avoid it feeling uninviting or gloomy. This window can also be opened independent of the external door to enable the room to be ventilated.
11. There is, therefore, no substantive reason to conclude that the living accommodation available within the HMO is substandard. While the Council has relied to some extent on the potential occupancy level of the HMO, it acts as both the planning and licensing authority. Accordingly, it can restrict the total number of residents within the HMO. In that way, the occupancy of the HMO can be regulated to ensure that it reflects the accommodation provided and the communal and kitchen facilities that are available to residents.
12. On the main issue, I conclude that the development provides satisfactory living conditions for its occupiers. As such, it does not conflict with Policies D4 and D6 of The London Plan (LP); the Technical Housing Standards – Nationally Described Space Standards; the Council's HMO Licensing requirements; or the Mayor's Housing Supplementary Planning Guidance insofar as they aim to safeguard residential amenity. As LP Policy T6, which is also cited in the reason for refusal, deals with car parking it is not directly relevant to this issue.
13. In reaching this conclusion, I have had regard to the cases identified by the appellant as precedents and an appeal decision¹ at 49 Central Avenue, Hayes, with background information provided. While there are some similarities between these cases and the development before me there are also notable differences especially in the details of the proposal and the site's location. One aspect of the Council's concern in this case is also specific to Bedroom No 2. Therefore, I am not convinced that direct parallels can be drawn between these earlier decisions and the development, as the appellant suggests. In any event, each proposal should be assessed on its own merits, as I have done.

¹ Ref APP/R5510/W/17/3178166 dated 1 December 2017

Conditions

14. Given that the use has already taken place, and no alterations or extensions are proposed, the Council's suggested conditions relating to development starting, compliance with the plans, matching external materials and any details to be provided before first occupation are unnecessary.
15. It is, however, appropriate to impose a condition that specifies the maximum occupancy level of the HMO because it reflects the development sought and my assessment of it. To ensure the satisfactory appearance of the development, a condition is also attached to require details of the storage arrangements for cycles, refuse and recycling.

Conclusion

16. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall have a maximum occupancy of ten persons.
- 2) Within 3 months of the date of this decision, a scheme for the storage of cycles, refuse and recycling shall have been submitted for the written approval of the Local Planning Authority. The scheme shall include a timetable for its implementation. The approved scheme shall be carried out and completed in accordance with the approved timetable and permanently retained thereafter.