

## Appeal Decision

Site visit made on 3 September 2024

**by C Livingstone MA(SocSci) (Hons) MSc MRTPI**

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

**Decision date: 04 OCTOBER 2024**

---

**Appeal Ref: APP/P5870/W/23/3331307**

**16B Hawthorn Road, Sutton, Wallington SM6 0SX**

- 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 Jordanna Nunes, Echo Property Services, against the decision of the Council of the London Borough of Sutton.
  - The application Ref is DM2023/01000.
  - The development proposed is change of use from 6-bed house of multiple occupancy (Class C4) to 8-bed house of multiple occupancy (Sui Generis)
- 

### Decision

1. The appeal is allowed, and planning permission is granted for change of use from 6-bed house of multiple occupancy (Class C4) to 8-bed house of multiple occupancy (Sui Generis) at 16B Hawthorn Road, Sutton, Wallington SM6 0SX in accordance with the terms of the application, Ref DM2023/01000, 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 drawing Nos: Site Location Plan, Location Plan (1:1250), 16BHR-EX-101, 16BHR-EX-102, 16BHR-EX-103, 16BHR-EX-104, Cycle Storage Rev 1.
  - 3) The approved waste storage areas shall be provided, and made available for use, on site prior to first occupation of the development hereby approved and retained as such thereafter.

Refuse bins shall be stored at all times, other than on collection days, within the approved refuse storage area.
  - 4) The proposed development shall not be occupied until space has been laid out within the site in accordance with drawing 16BHR-EX-101 for eight bicycles to be stored and that space shall thereafter be kept available for the storage of bicycles.
  - 5) The development must be carried out in accordance with the provisions of the Fire Safety Statement, which should be published and made available to all building users.

## **Application for costs**

2. An application for costs in relation to this appeal was made by the appellant against the Council of the London Borough of Sutton. This application is the subject of a separate decision.

## **Preliminary Matters**

3. The change of use of the building from a small house of multiple occupation (HMO) to a large HMO for eight people, represents a change from a C4 use class to a sui generis use and constitutes a material change in planning terms, falling under the definition of development under the terms of the Town and Country Planning Act 1990. I proceed to determine the appeal on this basis.
4. A Parking Survey dated September 2023, was submitted as part of the appeal. Interested parties have had an opportunity to review and make comments on the evidence submitted. Therefore, I do not consider that the Council or any interested parties would be prejudiced by me accepting this report.
5. The submitted Parking Survey details parking availability within walking distance of the appeal site. The Council is satisfied that this would address the third reason for refusal relating to parking provision and I will cover this matter later.

## **Main Issues**

6. The main issues are:
  - the principle of the conversion of the small six-bedroom HMO to a large eight-bedroom HMO in respect to housing need and local plan policy; and
  - whether the proposal would provide suitable living conditions for all future occupants with regard to internal living space and occupants of bedroom four in regard to outlook and light.

## **Reasons**

### **Principle**

7. The appeal site is located within Park Hill Road Area of Special Local Character, which is a residential area characterised by attractive, large traditional family homes within a wide tree lined street. However, the appeal property is of a relatively modern construction. The Inspector of a previous appeal<sup>1</sup> allowed the subdivision of the property, with a side extension of the property forming a separate dwelling. Thus, creating a semi-detached property.
8. 16B Hawthorn Road currently operates as a six-bedroom HMO and planning permission is sought to allow two storage rooms on the ground floor of the property to be used as bedrooms. This would form a large eight-bedroom HMO. To meet the borough's housing needs Policy 10 of the Sutton Local Plan 2016-2031, adopted February 2018 (SLP). criterion 'c' sets out the

---

<sup>1</sup> APP/P5870/X/10/2135519

instances where proposals for the increase in residents to a large HMOs would be supported. This criterion sets six specifications that must be met in such instances, which are detailed as follows:

- (i) Is a detached property and the proposed new units will share facilities and have a joint access.
  - (ii) Is within one of the Areas of Potential Intensification.
  - (iii) Has no adverse impact on the amenity of neighbouring properties.
  - (iv) Does not detract from the character and appearance of the area, particularly when proposed in Conservation Areas and Areas of Special Local Character.
  - (v) Meets the Mayor's internal space standards.
  - (vi) Does not adversely affect on-street parking.
9. In terms of criterion c (i) the future occupants would share a kitchen/dining room and access would be shared by all of the occupants. However, as detailed above, the property is semi-detached and would therefore fail to meet part of this criterion. The appeal site is within the 'Area of Potential Intensification' which complies with c (ii). The Council raise no material concerns regarding the impact of the proposal on the amenity of neighbours and as the proposed scheme would allow for only two additional occupants and no external alterations are proposed; I see no reason to disagree with this assessment, as such it would comply with c (iii).
10. As no material external changes are proposed, the Council considers that the proposal would not harm the residential character of the area or streetscene. I have no reason to disagree with the Council in this regard. Further, the use of a single property as a large HMO would not have a materially harmful effect on the residential character of the Park Hill Road Area of Special Local Character, where the majority of properties remain as single family homes; and would comply with criterion c (iv) in this regard.
11. There are currently no minimum space standards for communal and private areas of this type of accommodation. There is therefore no evidence to suggest that the proposed scheme would comply with criterion c (v). The submitted Parking Survey found that the proposal would not result in an unacceptable level of parking stress to the area and concludes that there is 54% parking availability within a two minute walking distance of the appeal site. This demonstrates that the proposal would not result in an unacceptable level of parking stress to the area or conflict with SLP Policies 36 and 37. As such the change of use would comply with criterion (vi). In coming to all of the above views, I have taken into account all of the representations received from interested parties, including those of the Heathdene Area Residents Group.
12. While the proposal would conflict with part of criterion c (i) no material harm has been identified as a result of the property being semi-detached. The evidence before me indicates that the principle of the proposal is acceptable in all other respects. Further, HMOs play an important role in meeting diverse housing needs and the proposal would have the potential to provide a home

for two additional individuals. These are material considerations which indicate that the appeal should be granted.

13. For the reasons detailed above, the principle of the conversion of the small six-bedroom HMO to a large eight-bedroom HMO is acceptable. The proposal would conflict with part of criterion c(i) Policy 10 of SLP. However, as no material harm has been identified in this respect, material considerations indicate that permission should be granted.

#### Living conditions

14. The proposed change of use would increase the number of occupants using the existing shared facilities within the property and the dispute between the main parties relates to their suitability in light of this. Even with bedrooms of an acceptable size, it is reasonable to expect that occupants have suitable space in which to prepare food, dine and mix with fellow residents as social interaction is important for mental health and well-being.
15. All occupants of the HMO would have access to a shared kitchen which includes a table and chairs, therefore I consider it to be a kitchen/dining area. There are no planning policies before me that set minimum standards for shared facilities in large HMOs. However, it is relevant to note that the table on page 6 of the Council's Housing in Multiple Occupation Standards (HMOs) states that a combined kitchen/dining area for 8 occupants should have a floor area of 20sqm. The appellant asserts that the room would meet this area requirement while the Council found that the floor area of the existing kitchen and dining room would be slightly below this at 19sqm. The shared kitchen and dining area has been fitted out to a high standard and includes two sets of kitchen appliances; the open layout of the room maximises the space available for circulation when carrying out day to day activities.
16. The Housing in Multiple Occupation Standards (HMOs) a material consideration, and there is no substantive evidence before me to demonstrate that the kitchen/dining area would not be generally in accordance with licencing standards. Further, the shared kitchen and dining room would provide suitable shared facilities that would meet the needs of both existing and future occupants.
17. The bedroom identified on the proposed plans as 'bedroom 4' is an adequately sized room with a separate en-suite. Views from the window are partially obscured by the existing boundary treatment. However, a large proportion of the window would remain unobscured and would allow for an adequate outlook for future occupants. The size of the window and the orientation of the building is such that future occupants would have adequate light. There is an existing bedroom on the loft floor that would be two floors above the kitchen/dining room. However, this is an existing arrangement that would be unaffected by the proposal.
18. Concerns have also been raised regarding the living conditions of the occupants of bedroom 1 and bedroom 3. However, the Council raised no concerns in these regards; as bedroom 1 is currently in use as part of the small HMO and bedroom 3 would be dual aspect, with a sufficient set back from the boundary wall to achieve a suitable outlook, I have no reason to disagree with the Council.

19. For the reasons detailed above the proposal would provide suitable living conditions for all future occupants with regard to internal living space and occupants of bedroom 4 in regard to outlook and light. The proposal is there in accordance with the requirements of the National Planning Policy Framework in ensuring safe and healthy living conditions for existing and future occupants.
20. In its reason for refusal the Council refers Policy H16 of the London Plan 2021 in regard to living conditions of future occupants. However, this policy relates to large-scale purpose-built shared living and is not relevant to HMOs which are a different type of accommodation. Therefore, this policy is not determinative in my assessment of this appeal.

### **Other Matters**

21. The submitted Parking Survey concludes that there is 54% parking availability within a two-minute walking distance of the appeal site. This demonstrates that the proposal would not result in an unacceptable level of parking stress to the area. I am therefore satisfied that this submission addresses part of the Council's first and their third reason for refusal as it would accord with the terms of Policies 36 and 37 of the SLP which require that the transport impact of development is suitably assessed and addressed and avoids overspill parking problems.
22. The Council has raised no material concerns with regard to the impact of the proposal on the living conditions of the occupants of neighbouring properties, including noise and disturbance and sustainability. Further, they have also raised no concerns in terms of design or the impact of the scheme on the highway. As the proposal would involve minimal external works and would allow for only two additional occupants, I find no reason to disagree with the Council in these respects.
23. My attention has also been drawn to seven previous appeals for HMOs that were dismissed<sup>2</sup>. However, none of the appeal sites were within the London Borough of Sutton. Therefore, each of these appeals was assessed under a different development plan. There is also no substantive evidence before me to demonstrate that individuals living within the proposed HMO would be likely to commit acts of anti-social behaviour.
24. The submitted representations also includes the minutes from the 'Housing, Economy and Business Committee meeting' on 28 November 2023, which was in support of an Article 4 Direction to control the number of HMOs in the borough. Notwithstanding this, there is no evidence before me to suggest that an Article 4 Direction has been put in place at the appeal site.
25. Concerns have also been raised regarding the alterations that have been carried out at the property and the potential for the appellant to create a

---

<sup>2</sup> APP/Z4310/W/22/3309935, APP/Z1775/W/20/3253373, APP/N5090/W/21/3284811, APP/U5930/W/22/3290017, APP/V1260/W/22/3303418, APP/Q1445/W/17/3180711, APP/Z4310/W/22/3298397

larger HMO and merge it with the neighbouring property 16A Hawthorn Road. For the avoidance of doubt, I have determined the appeal based on the plans and information before me.

### **Conditions**

26. I have considered the suggested conditions against the tests set out in the Planning Practice Guidance and paragraph 56 of the Framework. Where appropriate, I have adjusted the wording to improve precision and enforceability.
27. I have attached conditions relating to the time limitation for the commencement of the development and compliance with the approved plans in the interests of clarity and certainty.
28. In order to ensure the proposal would meet the needs of future occupants I have attached conditions relating to the provision of cycle parking and waste storage facilities.
29. I have also included a condition requiring compliance with the submitted Fire Safety Statement in order to protect the health and safety of occupants. However, due to the nature and minimal extent of building works proposed I have omitted the suggested condition limiting the hours of construction.
30. The proposal includes only minimal external alterations, and it is proposed that the wall at the front of the property would be retained. As the appeal is for the change of use of the building it would be unreasonable to include a condition to reduce the height of the existing wall as this would fail to accord with the tests set out in the Planning Practice Guidance and paragraph 56 of the Framework.

### **Conclusion**

31. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. Having taken into account all matters raised, I conclude that the appeal should be allowed.

*C Livingstone*

INSPECTOR