



Appeal Decision

Site visit made on 5 August 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal Ref: APP/M5450/W/24/3337694

93 Headstone Road, Harrow, HA1 1PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Qasim Gulamhusein on behalf of 93 HA1 LIMITED against the Council of the London Borough of Harrow.
- The application Ref PL/0123/23.
- The development proposed is change of use from C4 Small House in Multiple Occupation for up to 6 people to Large House in Multiple Occupation (Sui Generis).

Decision

1. The appeal is allowed and planning permission is granted for change of use from C4 Small House in Multiple Occupation for up to 6 people to Large House in Multiple Occupation (Sui Generis) at 93 Headstone Road, Harrow, HA1 1PG in accordance with the terms of the application, Ref PL/0123/23, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by 93 HA1 LIMITED against the Council of the London Borough of Harrow. This will be subject to a separate decision.

Preliminary Matters

3. The appeal is made against the failure of the Council to give notice of its decision within the prescribed period. The Council has nevertheless provided evidence indicating that it would have refused planning permission and setting out its area of concern with regard to the proposal. This concern has framed my main issue.
4. On visiting the appeal property, I saw that the proposal remained unimplemented, however I noted a kitchen area on the ground floor. This does not reflect either the existing or proposed plans as originally submitted to the Council with the planning application, but does reflect amended plans subsequently provided to the Council, which declined to accept them.
5. Even though the amended plans might more accurately reflect the property as it currently exists, the amendments involve changes to the proposed scheme in order to incorporate the ground floor kitchen. This revised proposal has not been the subject of consultation. Accordingly, and having regard to procedural fairness, I have considered the proposal on the basis of the plans as originally submitted to the Council.

6. It is not within the scope of this appeal to establish the lawfulness, or otherwise, of the ground floor kitchen as it currently stands, and its lawfulness has not otherwise been demonstrated. Accordingly, and while I acknowledge its presence, I afford it little weight in my considerations.
7. It is contended by the appellant that the provision of an additional bedroom would not amount to a change of use requiring planning permission. It is not within the scope of this appeal to determine this. In any event, as a planning application was submitted for a change of use of the appeal property, I have determined the appeal on this basis.

Main Issue

8. The main issue is whether the proposal would provide future occupiers with satisfactory living conditions with regard to access to kitchen facilities.

Reasons

9. The appeal property is a two-storey terraced house incorporating accommodation in the roof space facilitated by a dormer window. There is no dispute that the property is currently in use as a six-person small House in Multiple Occupation ('HMO').
10. As a result of the proposal, the property would accommodate 7, rather than 6 occupants. Notwithstanding the existing ground floor kitchen area, the status of which I have addressed above, the proposed plans indicate that all residents would be served by a single kitchen on the second floor of the building. It is not disputed that this kitchen would amount to 9 square metres ('sqm') in area.
11. Policy DM1 of the Harrow Council Development Management Policies ('DMP') states that change of use proposals must achieve a high standard of design and layout, the assessment of which will have regard to the functionality of the development, including the convenience and safety of internal circulation. It also requires consideration of the adequacy of the internal layout of buildings in relation to the needs of future occupiers. DMP Policy DM30 requires that Large HMOs provide satisfactory living conditions for the intended occupiers.
12. The Harrow Council Houses in Multiple Occupation Conditions and Amenity Standards ('HMO Standards') is primarily focused upon the licensing regime and does not form part of the development plan. This means I can afford it only limited weight, but it nevertheless provides a useful source of guidance in relation to appropriate living standards within HMOs.
13. The HMO Standards set out a number of acceptable scenarios in relation to the sizes of bedroom, kitchen and communal areas, and allows trade-off in room size depending on specifications of each type of space. As identified by a previous Inspector¹, it states that for single occupancy rooms where only bedrooms and a kitchen are provided, that bedrooms should exceed 10sqm, and that the kitchen should provide 5sqm, plus an additional 1sqm per resident beyond 3. This means that in relation to the proposal, that in order to meet this scenario, the proposed kitchen should be a minimum of 9sqm, and bedrooms, 10sqm.
14. The evidence indicates that these minimum standards would be met, and in the case of the bedroom sizes, exceeded. The sizes provided in the appellant's

¹ APP/M5450/W/22/3311098

planning statement, which are not disputed, indicate that bedrooms would range from between 14.61sqm to 20.83sqm in area. On this basis, I find that the size of the kitchen, when considered in the context of the sizes of the proposed bedrooms and cooking and storage facilities that they contain, would be satisfactory.

15. It is also indicated within the HMO Standards that for single occupancy rooms, where bedrooms and a kitchen/diner are proposed, that bedrooms must be a minimum of 6.5sqm and that, in the case of a 7-bedroom property, that the kitchen/diner should be a minimum of 14sqm.
16. However, these are interchangeable scenarios which allow a variety of responses to room configurations. As the proposal would meet all of the minimum space requirements, for a 'bedroom and kitchen only' scenario, it is not necessary for me to consider the alternative 'bedroom and kitchen/diner' scenario.
17. I understand that a previous Inspector² made reference to a requirement for a communal kitchen for 7 occupants to measure 14sqm. This aligns with the 'bedroom and kitchen/diner' scenario. As that Inspector found that the proposed room configuration would meet the requirements for this scenario, further consideration of a 'bedroom and kitchen only' scenario would not have been necessary. Accordingly, in applying the 'bedroom and kitchen only' scenario myself, I have not acted inconsistently with the earlier Inspector's conclusions.
18. It is also stated within the HMO Standards that where no communal space or kitchen/diner is provided, that all bedrooms should be no more than one floor distant from the kitchen in order to prevent residents from carrying meals up or down two (or more) flights of stairs. In this respect, the proposal would be contrary to the HMO Standards.
19. However, I saw that bedrooms within the property incorporate electric hobs and sinks, and in some rooms, I also observed fridges and microwaves. Furthermore, the existing plans originally submitted with the application indicate that the two ground floor bedrooms were, at that point, reliant on the second-floor kitchen for cooking activity beyond that which could be achieved in the bedrooms themselves.
20. Setting aside the subsequently installed ground floor kitchen, the status of which I have discussed above, it is possible that should the appeal fail, that the property would continue to operate as indicated on these plans. There is no substantive evidence before me which indicates that such an arrangement was inconvenient or unsafe, or provided unsatisfactory living conditions.
21. The occupier of the additional ground floor bedroom proposed, would also be required to make use of the second-floor kitchen. However, given the existing arrangement, it has not been shown that any future occupier of this bedroom would be presented with unsatisfactory living conditions in this regard. Therefore, although the three ground floor bedrooms would be more than a single floor distant from the designated kitchen, and would represent an intensification of the use of the property, I consider that this would not be materially worse than the arrangement shown on the existing plans.

² APP/M5450/W/23/3316618

22. Therefore, I conclude that the proposal would provide acceptable living standards for future occupiers with particular regard to access to kitchen facilities. It would accord with London Plan Policies D3, D6 and H9, as well as DMP Policies DM1, DM27 and DM30. Together, and amongst other factors, these policies state that developments should achieve indoor environments that are comfortable and inviting for people to use, that layouts are of a high standard, and that appropriate amenity space, and satisfactory living conditions for the intended occupiers are provided.
23. The proposal would not wholly accord with the HMO Standards, however as stated above, this is not an adopted document which forms part of the development plan. I therefore afford only limited weight to the conflict with it.
24. The Council has also cited conflict with the Harrow Residential Design Guide Supplementary Planning Document, however I have not been directed to any particular wording within this document which would be relevant to this main issue. This document has not, therefore, been determinative in my considerations.

Other Matters

25. I have been referred to further appeal decisions³, in addition to those that I have addressed above. Having had regard to these, and while both related to HMOs, neither directly related to the specific main issue which I have identified in this instance. I am therefore satisfied that my approach and conclusions would not represent inconsistencies with these cited examples.

Conditions

26. I have attached conditions relating to the time limit for implementing the development and requiring adherence with the approved plans in the interests of clarity. I have also attached a condition relating to the provision of boundary treatments in the interests of the living conditions of future occupiers, as well as conditions relating to the provision of cycle and waste storage in the interests of encouraging sustainable means of travel and in the interests of the character and appearance of the area.
27. Where necessary, I have sought and received the agreement of the appellant in relation to pre-commencement conditions.

Conclusion

28. The proposed development would accord with the development plan as a whole, and there are no material considerations, including the Framework, that would lead me to conclude that a decision should be made other than in accordance with the development plan.
29. For the reasons given above, I conclude that the appeal should be allowed, and planning permission granted.

C Harding

INSPECTOR

³ APP/M5450/W/20/3256326 & APP/M5450/W/20/3263875

*****SCHEDULE OF CONDITIONS*****

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Existing & Proposed Elevations dated 13 July 2023

Proposed Site Plan dated 13 July 2023

Proposed Site Plan (site location plan) dated 13 July 2023

Proposed Site Plan (showing internal layout) dated 13 July 2023

3. The development hereby permitted shall not be occupied until a plan and elevations indicating the positions, design, materials and type of boundary treatment (minimum 1.8m in height) to be erected around the outdoor private amenity space of rooms 2 and 3 have been submitted to, and approved in writing by, the local planning authority. The boundary treatment shall be completed before the development is occupied. The development shall be carried out in accordance with the approved details and shall thereafter be retained.
4. The development hereby permitted shall not be occupied until secure and sheltered cycle storage facilities for 7 cycles has been made available within the rear garden, in accordance with details (including dimensions, elevations and external materials), to have previously been submitted to and approved in writing by the local planning authority. The cycle storage shall be retained thereafter in accordance with the approved details.
5. The development hereby permitted shall not be occupied until details of waste storage, including the number of proposed bins has been submitted to and approved by the local planning authority. The refuse bins shall thereafter be stored at all times, other than on collection days, in the designated refuse storage area, in accordance with the approved details.

*****END OF CONDITIONS*****