



Appeal Decision

Site visit made on 7 November 2024

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

Appeal Ref: APP/F5540/W/24/3350140

108 Hibernia Road, Hounslow TW3 3RN

- 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 Link-Estates Limited against the Council of the London Borough of Hounslow.
 - The application Ref is 00603/108/P10.
 - The development proposed is change of use of ground floor from Class E use together with change of use of 1st and attic floors from C3 to Sui Generis HMO, together with hip to gable roof extensions and new rooflights.
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Decision

1. The appeal is dismissed.

Reasons

Background information

2. The Council has not raised any concerns with the proposed hip to gable roof extensions and rooflights. Their only concerns are with internal space standards and the loss of a community facility.

The Development Plan

3. The Development Plan includes the Hounslow Local Plan (HLP) and the London Plan (LP). Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that any determination to be made under the Planning Acts must be made in accordance with the Development Plan unless material considerations indicate otherwise.

The main issues

4. The main issues are; first, whether the occupants of the proposed House in Multiple Occupation (HMO) would have acceptable living conditions; and second, whether the proposed development would result in an unacceptable loss of a community facility.

The first issue – living conditions

5. The proposed HMO would have eleven letting rooms, nine doubles and two singles, each with an en-suite shower room and kitchen facilities. At ground floor level there would be a kitchen/common room and a laundry room, and at first floor level there would be a communal kitchen. The Council maintains that each of the eleven letting rooms would, in accordance with the 'Gravesham' test, contain all

that is necessary for day-to-day living and that, therefore and notwithstanding the communal facilities, the rooms would be self-contained dwellings. They have thus applied the space standards set out in LP policy D6; none of the eleven letting rooms meet these standards.

6. The application is not for eleven self-contained dwellings but for an HMO, and the Council has adopted guidance titled 'Standards for Houses in Multiple Occupation'. In this document it is stated that "This guidance lays down the minimum standards that the London Borough of Hounslow will apply to Houses in Multiple Occupation (HMO) and will assist you in meeting your legal responsibilities". The guidance has a section 'Kitchen facilities provided within lettings', which sets out standards to be applied where kitchens are provided in letting rooms.

7. The Council is not applying its own adopted standards for HMOs. The guidance envisages, and provides for, situations where letting rooms would have kitchen facilities, as in this case. All eleven rooms, furthermore, exceed the minimum space standards set out in the guidance for a 'Room which contains its own kitchen facilities'. The proposed HMO would meet the minimum space standards in the guidance and there is no reason to suppose that the HMO would not meet all the other standards set out in the guidance thus enabling the operator of the facility to meet their legal responsibilities.

8. In a previous appeal for HMO use of the property the Inspector applied the Nationally Described Space Standards (NDSS), which were set out in a Government document issued in March 2015. The Inspector found that the property would fail to meet the NDSS. The Council's guidance was adopted in May 2018 and very clearly provides for situations where letting rooms in an HMO would have kitchen facilities. There is no reason to set aside this more recently adopted guidance and instead to favour the NDSS.

9. The proposed HMO would provide its residents with acceptable living conditions and thus complies with HLP policy SC5.

The second issue – community facility

10. HLP policy CI1 'Providing and Protecting Community Facilities' states that if a development will result in the loss of a community use and is not re-providing the existing community use elsewhere certain criteria must be met. These criteria are that the facility has been vacant for a continuous period of 18 months and is not appropriate for any other community uses as demonstrated by the applicant through evidence of sufficient marketing, that the facility is no longer required by the body that operates it, and that robust evidence has shown that the use is no longer required to serve its catchment area.

11. The lawful use of the property was established on 23 January 1985 by the grant of planning permission for 'use of premises as doctor's surgery (with residential accommodation above)'. The doctor's surgery that occupied the ground floor, which was a community use, ceased to operate in November 2015. The property was placed with an Estate Agent, Hunters, and advertising commenced in August 2018. Given its lawful use the property was advertised as being 'Ideal for Dentist/Day Nursery' and that it had 'Development Potential STPP' (subject to planning permission). In an email to the Appellant's Agent dated 29 November 2019 a Director of Hunters stated that the property "...has been marketing consistently since August 2018..." and that "During this period the property has not

had any successful offers for the purchase of it nor lease. There has been no requests made for it to be used..." as a community facility.

12. The property remained unused until 2020 when it was converted to an HMO. An application was made to the Council for an HMO licence on 16 January 2020, the property was first occupied as an HMO on 6 March 2020, and a five year licence for this use, though it was unauthorised in planning terms, was issued by the Council on 7 May 2020. It is likely that the email of 29 November 2019 precipitated the decision to convert the property to an HMO. At that time the property had been vacant for more than 18 months, November 2015 to November 2019, but it had only been advertised for a period of 15 months.

13. There is sufficient evidence to demonstrate that the ground floor of the property is no longer required to be used as a doctor's surgery; there are two large medical facilities within walking distance. The marketing relied upon by the Appellant is the same as that which was considered by a previous Inspector in Appeal Ref. APP/F5540/W/21/3288952. But in that case the proposed use of the property included the retention of about 82 square metres of community space. This and other factors led the Inspector to conclude that the proposal did not conflict with HLP policy CI1 when read as a whole.

14. In this case the proposal is for the use of the entire property as an HMO so the circumstances are different to those in the previous appeal. The Appellant maintains that "...the Council have produced no evidence that there is a latent demand for premises of this nature for community use". But it is not for the Council to produce such evidence, and HLP policy CI1 is clear that the Applicant must demonstrate through evidence of sufficient marketing that the property is not appropriate for any other community use. The marketing evidence is, as found by the previous Inspector, 'scant' and does not sufficiently demonstrate that the property, or part of it, is not appropriate for any other community use.

15. The proposed development would result in an unacceptable loss of a community facility and conflicts with HLP policy CI1.

Conclusion

16. The proposed HMO would provide its residents with acceptable living conditions but the development would result in an unacceptable loss of a community facility. The latter matter is of overriding concern and carries with it clear conflict with the Development Plan. Nothing mentioned in support of the appeal, including the need for housing, indicates that the appeal should be determined other than in accordance with the Development Plan.

John Braithwaite

Inspector