



Appeal Decision

Site visit made on 18 February 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Appeal Ref: APP/T5150/W/24/3355804

145 Bridgewater Road, Brent, Wembley HA0 1AH

- 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 Alshad Ladha against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/2216.
 - The development proposed is change of use from a single family dwellinghouse (Class C3) to a House of Multiple Occupation (HMO) (Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out in the banner heading above, at my visit I saw that the property already appeared to be in use as an HMO. However, I have no substantive evidence that the existing HMO is a lawful use. I have, therefore, assessed the appeal before me as a change of use from a family dwelling to a five-bedroom HMO with internal alterations, as shown on the submitted plans.
3. The Government has recently published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

4. The main issues are:
 - the suitability of the proposed development, having regard to the development plan's approach to the provision of Houses in Multiple Occupation (HMOs); and
 - whether or not the proposed property management arrangements comply with local policy and guidance.

Reasons

Suitability of development

5. The appeal property is a semi-detached, five-bedroom, dwelling which benefits from a two-storey side extension. It is located within a residential area of similar properties and fronts the A4005 with a driveway at the front and hard surfaced yard at the rear.

6. The appellant has sought to challenge whether the proposal is development. Section 55(1) of the Town and Country Planning Act 1990 (the Act), includes the making of any material change of use of any buildings as part of the meaning of development. The Act does not define a material change of use and this is a matter of judgement for the decision maker.
7. The change of use from Class C3 to Class C4 and vice versa is permitted by Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015, as amended. It is, therefore, recognised as a change of use within that order.
8. That there are no external alterations proposed, including that the garden is not to be subdivided, would mean that the proposed change of use would fall within the definition of 'uses' as set out in *Parkes v SSE [1979] 1 All ER 21172*. Neither the *West Bowers Farm Products*¹ nor *Lowther*² cases referred to by the appellant alter this.
9. Although the house is already five-bedroomed, and could accommodate a large or extended family, the use of the property as a five-bedroom HMO would result in a significantly different form of housing and would result in five separate households. Unlike a single-family unit, where there would be likely to be some shared movements and schedules, the occupants of the HMO are likely to all have different schedules, make separate trips, and receive individual visitors and deliveries. In comparison to a single dwelling, even if it were to be occupied by a similar number of people, this would be likely to result in an increase in comings and goings at various times of the day.
10. The change of use to an HMO would be perceptible and a fundamentally different use to a single family dwelling. Moreover, the change would give rise to such materially different planning circumstances that it would change the character of the property. In coming to this view, I have taken into consideration the findings of *Richmond upon Thames LBC v SSETR & Richmond upon Thames Churches Housing Trust [2001] JPL 84, R (oao)*, *Kensington and Chelsea RBC v SSCLG & Reis & Tong [2016] EWHC 1785 (Admin)* and *Hertfordshire CC v SSCLG & Metal and Waste Recycling Ltd [2012] EWCA Civ 1473*. I also find that the appeal proposal is materially different to the *Snook*³ and *Westminster*⁴ cases.
11. Moreover, the area is covered by a Borough-wide Direction made under Article 4. The Direction stipulates that planning permission is required for development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (HMO) of the Town and Country (Use Classes) Order 1987, as amended. The Article 4 is not a blanket restriction on changes of use. However, it does require planning permission and consideration of such proposals against the adopted policy.
12. For the above reasons, I find that the appeal proposal would result in a material change of use where planning permission would be required.
13. Policy BH7 of the London Borough of Brent Local Plan 2019-2041 (the LP) is supportive of the construction and conversion of properties to non-self-contained

¹ *West Bowers Farm Products Ltd v Essex CC [1987] JPL 857*

² *R x Durham CC ex parte Lowther [2002] P&CR 22*

³ *Snook v SSE [1976] JPL 303*

⁴ *Westminster CC v SSCLG & Oriol Badia and Property Investment (Development) Ltd [2015] EWCA Civ*

or self-contained residential accommodation with shared facilities, such as HMOs, subject to a number of criteria. Part a) requires such uses to be located in an area with good access to public transport and other amenities, including shops. The Policy also seeks to resist the loss of existing accommodation except where it is demonstrated that there is no need for the accommodation type.

14. The Brent Houses in Multiple Occupation Supplementary Planning Document (the SPD) provides supporting policy and advice for the consideration of HMOs against Policy BH7 of the LP. The SPD acknowledges that HMOs form a significant proportion of the borough's living accommodation and play an important role for many Brent residents.
15. Good access to public transport, as required by part a) of Policy BH7, is not defined in the LP. However, the SPD requires a minimum Public Transport Accessibility Level (PTAL) of 3 as HMO occupants often choose, or cannot afford to, own a car. Even though there are bus stops near the site on Bridgewater Road, the appeal site lies within an area with a PTAL of 2, albeit close to a PTAL 3 area. The appeal site is, therefore, not in an area with good access to public transport as required by Policy BH7 of the LP and as required by the SPD.
16. There are a range of services and facilities within Ealing Road local centre and a large supermarket and train station, which are within walking distance of the appeal site. Nevertheless, the walk to these services and facilities would take approximately ten minutes. The services and facilities are all beyond the 400m distance and five-minute's walk from the appeal site, as recommended in both Policy BH7 and the SPD. There is more than a slight technical contravention with the recommended distances to services and this would reduce the possibility of occupants walking to services and facilities. The appeal site is, therefore, not in an area with good access to other amenities, including shops.
17. That the appeal site is located close to a busy A-road would not be sufficient grounds or evidence that the existing property would not be suitable for family occupation as asserted by the appellant. The property has a large rear yard which backs onto a much quieter area and would provide a suitable area for children.
18. Although there is an identified need for HMOs within the Council's Strategic Housing Market Assessment, 2018, the need for family accommodation, of three-bedrooms or more, is significant within the borough. The SPD advises that, where the quality of the HMO is not sufficiently high, it is more likely to tilt the balance in favour of retaining the property as a family dwelling. The Council has not raised any concerns regarding the room sizes, communal space provision or outdoor space provision. Nevertheless, the locational quality of the HMO, as detailed above, is not sufficiently high. Therefore, having regard to the advice in the SPD, and that there is a demonstrated need in Brent for family housing, even if the proposal would result in the loss of only one dwelling, I find that it would result in the unacceptable loss of a family dwelling.
19. The appeal proposal is, therefore, not suitable development, having regard to the development plan's approach to the provision of HMOs. It would be contrary to Policies DMP1 and BH7 of the LP which, in addition to the requirements of BH7 already referred to, require development to be satisfactory in terms of access for all, and be provided with the necessary physical and social infrastructure.

Management arrangements

20. Part c) of Policy BH7 of the LP requires proposals for HMOs to include management arrangements agreed with the Council. The SPD provides greater detail on what is sought within a management plan in regard to tenancy management and property management.
21. No details of the management arrangements for the appeal property were provided with the planning application and little additional information has been provided with the appeal. I cannot be certain that the appeal property would be occupied by professionals or well managed or maintained without such information.
22. However, although paragraph 5.36 of the SPD notes that ideally this would be submitted with the application, had I been minded to allow the appeal, a condition could have been worded so as to require the appellant to submit the details within a specific timeframe, so as to ensure that the property management arrangements would comply with local policy and guidance.
23. Be that as it may, I am dismissing the appeal on other matters and the management of the property as a HMO would not outweigh the harm that would arise from the poor access to public transport, services, and facilities and from the loss of the family dwelling.

Conclusion

24. For the reasons given above the appeal should be dismissed.

K Townsend

INSPECTOR