



Appeal Decision

Site visit made on 7 April 2025

by **F P Tinsley MA (Hons) MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/T5150/W/25/3359152

11 Minet Gardens, Brent, London NW10 8AS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Ms Gibbons and Mariathas against the decision of the Council of the London Borough of Brent.
 - The application reference is Ref 24/2263.
 - The development proposed is described as 'conversion of the 6 bedroom 10 person HMO into an 8 bedroom 13 person HMO to include the erection of a rear dormer, 2nd floor roof extension to the rear outrigger and installation of 2x front rooflights.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is uncertainty regarding the existing lawful use of the premises and whether this is as a dwelling house (Use Class C3) or as a House in Multiple Occupation (HMO), 6 bedroom 10 person (Sui generis). There is also the suggestion from the Council that the premises may be operating as an apart-hotel (Use Class C1). It is not my role in this appeal to determine whether a use or operation is lawful. This can only be formally determined by a Lawful Development Certificate application. I have therefore determined this appeal on the basis of the description of development provided by the appellant in the appeal form as detailed above..

Main Issues

3. The main issues are the effect of the proposed development on:
 - the living conditions of future occupants, with particular regard to the standard of internal accommodation.
 - the mix and balance of housing, with particular regard to the supply of housing in the area; and
 - fire safety.

Reasons

Living conditions of future occupants.

4. The Council's Houses in Multiple Occupation Supplementary Planning Document 2022 ('the SPD') is a material consideration in the determination of this appeal. It sets out minimum floor area standards of 7.5 square metres (sqm) for a single-

person room and 11.5 sqm for a two-person room. Policy D6 of the London Plan (2021) requires that double bedrooms have a minimum width of 2.55 metres (m), while single bedrooms must be at least 2.15 m wide. The London Plan's minimum floor area requirements for single and double bedrooms align with those of the SPD.

5. The plans show that aside from an access corridor, proposed Bedroom 07 would have a width of 2.072 m. I am satisfied that this limited width significantly reduces the usability of the room, which, when furnished (even with a single bed), would feel cramped and provide inadequate living conditions for future occupiers as a single bedroom. Therefore, the proposal fails to comply with policy D6 of the London Plan in this regard.
6. The SPD states that a kitchen must have a minimum floor area of 5.5 sqm for every three households or five people, whichever is the lower. A single kitchen can be doubled in size to meet the minimum space requirement for up to six households or ten people—the maximum permitted for a single kitchen facility. Where the number of occupants or households exceeds this capacity, kitchens should be separated accordingly. Similarly, living areas must have a minimum floor area of 11 sqm for up to five occupants or 16.5 sqm for up to ten occupants.
7. The proposal provides only 11 sqm of kitchen space in a single kitchen facility and no communal living area. Given that up to 13 occupiers are proposed, the SPD requires a minimum of 5 sqm of communal amenity space per occupant—including both kitchen and communal living areas—amounting to a total of 50 sqm. The proposal therefore falls significantly short of the minimum required standards in this regard. While it is noted that the existing HMO also falls below what would be permitted by current standards, the proposed development will exacerbate this existing adverse situation. I do not accept the appellant's assertion that the quality of bedroom fitout and their size, which it is stated are larger than the minimum room size requirements, outweigh the shortfall in internal communal space.
8. The SPD states that a minimum of 20sqm of external amenity space should be provided for an HMO. The appeal site benefits from a large external amenity space which would exceed the minimum of 20sqm required. However, the submitted ground-floor layout indicates that there would be no direct access from a communal living area to the rear garden other than from the front door via the side of the building. The proposed Bedroom 03 would have direct access to this amenity space. This arrangement conflicts with the SPD which stipulates that external amenity spaces should be directly accessible from communal living areas.
9. Despite its scale, and contrary to the appellant's assertion, the proposed large outdoor amenity space does not compensate for the substandard internal communal amenity space identified above. The functions of these spaces are distinctly different, and direct substitution is not appropriate. An over-provision in one regard does not directly offset an under-provision in another.
10. No provision has been made to ensure privacy at the rear-facing windows of Bedroom 03 at ground-floor level, meaning that the current layout could lead to overlooking and a loss of privacy, to the detriment of the occupants of this bedroom. The appellant suggests that a dedicated private area serving this bedroom could be provided to address this concern. However, while this may

partially mitigate the issue, it does not outweigh my broader concerns regarding the internal layout of the overall HMO.

11. Overall, the proposed HMO internal layout would be unacceptable and would not comply with the SPD or Policy D6 of the London Plan. It would also fail to comply with Policy BH7 of the Brent Local Plan 2019-2014 (2022) (the Local Plan), which amongst other things requires development to be of an acceptable quality meeting appropriate standards for the needs of its occupants, including external amenity space and appropriate communal facilities.

Supply of housing in the area.

12. The conversion of a 6-bedroom 10 person HMO into an 8-bedroom 13 person HMO would not necessarily constitute a material change of use requiring planning permission. As set out above, that is the proposal before me, and I make no assessment as to whether a 6-bedroom 10 person HMO use of the site is lawful.
13. In respect of this main issue, the Council's evidence focuses on whether the principle of conversion of a dwelling (Use Class C3) to a new HMO would be acceptable.
14. The proposed enlargement of the existing HMO would not be contrary to Local Plan Policy BH10 or Policy BH11 which amongst other things, seek to resist the net loss of residential dwellings and the loss family size housing (3 bedrooms or more). It would also not be contrary to London Plan Policy H9, which amongst other things seeks to promote efficient use of existing housing stock. The principle of the proposal would therefore be acceptable in this regard and the proposed development would provide a net additional increase in residential accommodation in the area. In this respect the proposal is in accordance with Section 5 of the National Planning Policy Framework (the Framework) and Local Plan Policy BH1, which, amongst other things states that the Council will maximise the opportunities to provide additional homes in the period to 2041.

Fire safety.

15. Policy D12a of the London Plan requires that all development proposals must achieve the highest standards of fire safety. It identifies specific requirements in order to achieve this. While the proposal may not provide all the requirements listed in Policy D12A, having regard to the scale and nature of the development, had I been minded to allow the appeal, I can see no reason that that this matter could not be appropriately addressed by means of a condition. This would have required the appellant to submit the details for approval prior to the commencement of development. For this reason, it is likely that the proposal is capable of complying with Policy D12a of the London Plan.

Other Matters

16. The appeal site has excellent access to public transport and is within 400m walking distance of some local amenities on Acton Lane and outside Harlesden Station. Details of refuse management could be appropriately addressed by means of condition. The appeal proposals are deemed to be acceptable in these regards. However, this does not outweigh my conclusions regarding the living conditions of future occupants.

17. Part c) of Policy BH7 of the Local Plan requires proposals for HMOs to include management arrangements agreed with the Council. I am satisfied that matters relating to the day-to-day management of the premises as an enlarged HMO could be addressed through appropriate conditions had I been minded to allow the appeal. Be that as it may, I am dismissing the appeal for reasons relating to the harm that would arise from the poor living conditions for future occupiers of the premises and the management of the property as an enlarged HMO would not outweigh the harm identified.
18. Houses in Multiple Occupation (HMOs) play an important role in the Borough's housing supply. However, I have found that the living conditions for occupiers would be compromised due to the poor quality of bedroom accommodation and internal communal space. Any benefits or alignment with the Framework or the Local Plan do not outweigh the harm I have identified.

Conclusion

19. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and other relevant considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

F P Tinsley

INSPECTOR