



APPEAL BY:

Mr Nathan Eriemo

AGAINST THE COUNCIL OF THE LONDON BOROUGH OF HILLINGDON'S REFUSAL TO  
GIVE CONSENT FOR:

*"Proposed change of use from C3 (Residential Family Dwelling) to C4 for 6 persons  
max (Small HMO)"*

AT

84 Tolcarne Drive, Hillingdon, Eastcote, HA5 2DG

Council of the London Borough of Hillingdon Reference: 35338/APP/2024/1664

WRITTEN REPRESENTATIONS:

RESPONSE TO LPA STATEMENT OF CASE AND THIRD PARTY COMMENTS

DECEMBER 2024

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## 1.0 INTRODUCTION

- 1.1 This Statement has been prepared by RJS Planning, on behalf of Mr Nathan Eriemo, in response to the LPA's Statement of Case and third party comments received by the Planning Inspectorate.
- 1.2 The appellant has already submitted a detailed appeal Statement of Case that addresses the LPA's reasons for refusal and the reasoning behind their decision provided within the Officer's Delegated Report; however, as the LPA has responded to the appellant's appeal Statement, these final comments will address the points made where necessary.

## 2.0 RESPONSE TO COMMENTS ON THE APPELLANT'S STATEMENT

- 2.1 The following paragraphs will address the Council's Statement of Case.

### ***Not Development***

- 2.2 For clarity, the appellant's main position is that this change of use is not *material*. There would be no perceptible change to site character and there would be no environmental effects of any consequence. The change would accord with good local planning policy in relation to HMO development and would not result in any *significant* planning policy consequences. Furthermore, there is no operational development associated with it. Consequently, the change is simply not development in the first instance under s55 of the Town and Country Planning Act 1990.
- 2.3 The appellant's Statement of Case considers the scheme as if it were development for completeness only. This is a hypothetical assessment, but should this be the case, the change of use would be permitted under the GPDO for reasons given.
- 2.4 The Council is entirely incorrect to assert that the "*consideration of the Certificate of Lawfulness is based solely on whether or not the change of use of the dwelling from C3 to C4 represents permitted development, as set out within Schedule 2, Part 3, Class L (B) of the GDPO.*"
- 2.5 The appellant has applied for a Certificate showing that the change from a C3 (Residential Family Dwelling) to C4 for 6 persons max (Small HMO) was lawful at the time the application was submitted. This change does not have to be 'permitted development' in order to have this established. One may give a Certificate for a change that simply is not development under the 1990 Act in the first instance and is lawful on this basis (as is the case here). The absence of development significance lawfulness.
- 2.6 An Article 4 prohibits *development*. Again, the appellant's main case is that this scheme does not even qualify as development and so is not caught by any Article 4 (although none exists in this instance). The absence of an Article 4 simply reinforces the assertion that there is no issue with regard to the character and appearance of the area from this change

of use, or any significant policy consequence. If this was not the case, the Council would have sought to have such an Article in place. This reinforces the appellant's stance regarding the absence of a *material* change of use.

2.7 The Council considers that the building could occupy up to 8 persons, given the size of bedrooms. However, this application is for 6 persons only. The Council refer to dismissed appeals Ref. APP/R5510/W/17/3179484 and APP/R5510/W/18/3218579, where HMOs were considered capable of accommodating a greater number of occupants than specified in the application. Nevertheless, this was clearly on the basis that no control of the occupancy of the properties was proposed.

2.8 In this instance, the lawfulness of an HMO for six persons is applied for. Nothing else. The appeal must be considered on this basis. Moreover, the HMO license would manage occupancy to six individuals only and a Management Plan could be conditioned again securing occupancy levels. Any breach of this license/condition could be sufficiently enforced. Lastly, the occupation of the building by more than 6 people may result in a material change of use, necessitating planning permission. There are therefore several clear mechanisms to control occupancy and any potential breach.

### **3.0 LPA'S SUGGESTED CONDITIONS**

3.1 The appellant is willing to accept the suggested conditions if deemed appropriate by the Planning Inspector.

### **4.0 THIRD PARTY COMMENTS**

4.1 Third party responses have been received during the appeal process. Concerns in relation to occupancy levels are addressed above. As evidenced, there would be no significant planning policy consequences as a result of this proposal. While different in nature to a single unit, the HMO would have no material effect on the character of the area, parking provision or highway safety. The building would provide high quality living conditions for future occupants and there is no evidence whatsoever that this proposal would result in antisocial behaviour.

4.2 Lastly, matters of 'precedent' should have no bearing on this appeal (or any other appeal for that matter). It must be assessed based on the individual merits of the proposal, in the light of the evidence provided.

### **5.0 CONCLUSION**

5.1 For the reasons explained within the appellant's appeal Statement of Case and these final comments, on the balance of probabilities, the Inspector can be satisfied that the change of use from C3 (Residential Family Dwelling) to C4 for 6 persons max (Small HMO) does not represent a *material* change of use. It is simply not development under s55 of the 1990 Act. On this basis alone the use described in this appeal proposal should be confirmed as lawful.

- 5.2 Furthermore, even in the event that this change was considered to represent development, it must be assessed under the provisions of the GPDO on the basis of the development applied for (occupation by no more than 6 persons). Clearly, a Sui Generis use would not fall under the relevant change permitted by Schedule 2, Part 3, Class L(b). Such a change has not been applied for regardless of room sizes. In any event, there are mechanisms to control occupancy.
- 5.3 As such, while comments have been considered, it is respectfully requested that the appeal submitted under s192 of the Town and Country Planning Act 1990 be approved and the change of use from C3 (Residential Family Dwelling) to C4 for 6 persons max (Small HMO) be confirmed as lawful.