



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Mr G Achiri

Proposal:
Change of use from Use Class C4 (House in Multiple Occupation) to Use Class C2
(Residential institution).

Appeal Site:
49A Chiltern View Road, Uxbridge

Our Ref:
Your Ref:

79259/APP/2025/181
APP/R5510/W/25/3366709

1. Introduction

- 1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal against the non-determination of a full planning application for the change of use from Use Class C4 (House in Multiple Occupation) to Use Class C2 (Residential institution).
- 1.2 The LPA's case is set out in this statement. A copy of the relevant planning policies has been submitted separately. A list of without prejudice conditions is provided at Appendix 1.
- 1.3 This statement will focus on addressing matters raised in the Appellant's statement of case and provides an overall assessment of the relevant planning considerations.

2. LPA Comments on Appellant's Statement of Case

- 2.1 Within their statement of case, the appellant has copied in the text of the planning statement that was submitted with the planning application. No new information has been submitted with the appeal. An assessment of the appeal proposal is provided below having regard to the material considerations.

Whether a C4 use has been established

- 2.2 The planning statement states - 'We have an existing HMO has an existing permit from planning to be rented out to 5 separate families under use class C4'.
- 2.3 Having reviewed the planning history, no record is found that confirms that the appeal site benefits from planning permission or a certificate of lawfulness for a C4 HMO use. It is therefore highlighted that in the first instance and notwithstanding any HMO licence, the lawful use of the site as a HMO has not been established.
- 2.4 The site lies within an Article 4 direction that requires Houses in Multiple Occupation to obtain Planning Permission for such uses. Therefore there is no fallback position for the original dwelling to be used as a C4 HMO under permitted development rights. It is therefore considered that the use of the appeal site as a C4 HMO would be an unlawful use of the property.
- 2.5 This matter is relevant to the determination of the appeal as the description of development refers to the existing use of the site being within C4 use. The description of development is therefore considered to be incorrect as the principle of a C4 use has not been established.
- 2.6 Officers had requested the appellant provide evidence to demonstrate the lawful use of the site as a C4 HMO however none was submitted and the appellant decided to pursue the appeal instead.

Principle of development

- 2.7 Policy H12 of the London Plan (2021) states 'The delivery, retention and refurbishment of supported and specialised housing which meets an identified need should be supported. The form this takes will vary, and it should be designed to satisfy the requirements of the specific use or group it is intended for, whilst providing options within the accommodation offer for the diversity of London's population, including disabled Londoners (see Policy D7 Accessible housing) within a wider inclusive community setting. Boroughs should undertake assessments of the need for short-term, medium term and permanent supported and specialised accommodation within their borough. Supported and specialised accommodation could include:
- 1) accommodation for people leaving hostels, refuges and other supported housing, as well as care leavers and people leaving prison to enable them to live independently
 - 2) accommodation for young people with support needs
 - 3) reablement accommodation (intensive short-term) for people who are ready to be discharged from hospital but who require additional support to be able to return

safely to live independently at home, or to move into appropriate long-term accommodation

4) accommodation for disabled people (including people with physical and sensory impairments and learning difficulties) who require additional support or for whom living independently is not possible

5) accommodation (short-term or long-term) for people with mental health issues who require intensive support

6) accommodation for rough sleepers

7) accommodation for victims of domestic abuse

8) accommodation for victims of violence against women and girls.

2.8 Policy DMH 1 of the Hillingdon Local Plan Part 2 - Development Management Policies (2020) states that 'The net loss of existing self-contained housing, including affordable housing, will be resisted unless the housing is replaced with at least equivalent residential floorspace'.

2.9 With regards to Sheltered Housing and Care Homes, Policy DMH 8 of the Hillingdon Local Plan Part 2 - Development Management Policies (2020) states:

A) The development of residential care homes and other types of supported housing will be permitted provided that:

i) it would not lead to an over concentration of similar uses detrimental to residential character or amenity and complies with Policy DMH 4: Residential Conversions;

ii) it caters for need identified in the Council's Housing Market Assessment, in a needs assessment of a recognised public body, or within an appropriate needs assessment and is deemed to be responding to the needs identified by the Council or other recognised public body such as the Mental Health Trust;

iii) the accommodation is fully integrated into the residential surroundings; and

iv) in the case of sheltered housing, it is located near to shops and community facilities and is easily accessible by public transport.

B) Proposals for residential care establishments which fall under Use Class C2 must demonstrate that they would provide levels of care as defined in Article 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

2.10 Article 2 of the Order defines "care" as personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment.

2.11 The definitions of Use Classes are set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) and with the relevant use classes being defined as follows:

Use Class C2 (Residential Institutions)

Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3. Dwellinghouses, used as sole or main residences).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Use Class C3 (Dwelling Houses)

Use as a dwellinghouse (whether or not as a sole or main residence) by

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within class C4).

- 2.12 There is no information regarding how the proposed C2 use would be managed on a day-to-day basis. Details of how the level of care provided to children and how they would be supervised 24 hours a day have not been provided.
- 2.13 A maximum of three children are expected to live at the proposed children's home. It is unclear whether there would be any resident staff or overnight staff that would be sleeping if there are three children occupying the property at one time.
- 2.14 It is unrealistic to expect children to look after themselves, so as to amount to a 'single household', since they require an adult to coordinate the running of a house, and without permanent adult presence it cannot be deemed a 'single household'.
- 2.15 Due to the lack of information, it is unclear whether the proposed living arrangement would be considered to be as set out in Class C3(a) 'a single person or by people to be regarded as forming a single household', or as a proposed use falling into a C2 use class.
- 2.16 As noted within London Plan Policy H12, specialised housing should be supported where there is a need. Whilst Officers acknowledge that there would be a loss of one C3 unit, given that this would enable the provision of a C2 residential home for a specialised category as listed in the London Plan, the loss of one unit may be acceptable provided sufficient justification is submitted. It is acknowledged that the property will continue to provide a form of housing that is essential to the borough needs.
- 2.17 In terms of the Policy DMH 8, criterion A) i), given the limited scale of development proposed which does not result in any enlargement of the existing building, and as the area is predominantly characterised by residential dwellings, it is considered that the proposed development would not amount to an over concentration of similar uses within the immediate area. Furthermore, the proposal would unlikely have a detrimental impact on the residential character of the area or amenity.
- 2.18 The proposal would not relate to the redevelopment of the dwelling into a block of flats therefore Policy DMH 4 is not considered relevant in this instance. In terms of criterion ii) it is acknowledged that there is an identified need for children's care homes within Hillingdon Borough. OFSTED will be the recognised public body, responsible for monitoring and assessing the Children's care home.
- 2.19 The building would be fully integrated into residential surroundings in accordance with criterion iii). The proposal does not relate to sheltered housing therefore criterion iv) is not relevant. With regards to criterion B), Use Class C2 in the Order also includes the personal care of children.
- 2.20 The planning statement indicates the use of the property for children however an Operational Management Plan has not been submitted in support of the application,

therefore the details of the proposed operator and the specific identified need are not provided.

- 2.21 The submitted floor plans show a bedroom, reception, kitchen/breakfast room and toilet on the ground floor and four ensuite bedrooms in the first floor and loft. The planning statement indicates occupancy by 3no children however no provision within the building has been provided for staff, office and other relevant communal facilities. The layout is not reflective of a C2 use.
- 2.22 In this regard, the application submission does not provide the appropriate level of detail on the operator and the specific need of the proposal. It has also not been demonstrated that the occupants of the proposed Class C2 children's care home would be provided with levels of care as defined in Article 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 2.23 The proposed would result in the net loss of self-contained housing and there is a lack of information and justification to support the proposed C2 use.
- 2.24 On the above basis, the principle of development is not considered to be acceptable and the proposal would fail to comply with the aims of Policies DMH 1and DMH 8 of the Hillingdon Local Plan Part 2 - Development Management Policies (2020) and Policy H12 of the London Plan (2021)

Character and appearance

- 2.25 With regards to character and appearance considerations, no internal or exterior works are proposed to the building, therefore resulting in a neutral impact on the character and appearance of the building and wider conservation area.

Amenity

- 2.26 In light of the small scale of the proposed use, it is considered that the number of people present would likely not be dissimilar to a residential dwelling and the comings and goings to and from the property would not be out of keeping with a residential area. As such, it is not considered the impact of the appeal proposal on residential amenity would be significant. A condition limiting the number of children is not considered necessary, as the size of the property will act to restrict this.

Living conditions

- 2.27 All bedrooms would be adequately sized and compliant with minimum space standards. The proposed habitable rooms would maintain an adequate outlook and source of natural light.
- 2.28 The retained rear garden area would be sufficient to meet the needs of a children's care home of this size. In light of the above, it is considered that the proposal would provide an acceptable provision of private external amenity space.
- 2.29 Overall, future occupants would be provided with an appropriate level of living conditions that is suitable for the proposed use.

Highway safety and parking

- 2.30 Owing to the relatively small-scale of the scheme combined with the 'low traffic generator' user profile (inclusive of infrequent visits/servicing) typically associated with care homes, the proposal would not be expected to generate measurable traffic burden on the surrounding roadways both during and outside of the most sensitive and therefore crucial peak morning and late afternoon/evening hours given the anticipated low car usage levels which can, therefore can be absorbed within the local road network without notable detriment to traffic congestion and road safety.
- 2.31 Two on-plot spaces are to be provided and there is no prescriptive regional standard that can be applied to this use class. However, the most appropriate council standard requires appraisal either by virtue of a Transport Assessment or 1 space per 4 dwelling units/occupants (with a minimum of 2 spaces) to be provided for a care home use (plus 1 warden/carer space). When applying the latter and assuming 3 children/young adults in attendance, this would therefore equate to a requirement of a maximum of 3 spaces and 2 are proposed. Although this provision would marginally fall below the maximum standard, it is considered acceptable in this specific case as surrounding roadways are extensively restricted thereby reducing the likelihood of measurable untoward displacement onto the local highway network,
- 2.32 In accordance with Policy DMT 6 pf the Local Plan: Part 2 and adopted parking standard, there is a requirement for EVCPs which would equate to a minimum facility of 5% of the total parking quantum for 'active' provision with a further 5% acting as 'passive' provision for future activation. As there is a strong move toward hybrid and fully electrified vehicles which will only increase in time, the proposal should incorporate 1 'active' and 1 'passive' space to futureproof for anticipated demand. The applicant has not confirmed such provisions hence, this aspect should be secured via planning condition.
- 2.33 In terms of cycle parking, 1 secure & accessible space per 5 staff should be provided. Again, this aspect should be secured via planning condition.

3. Conclusion

- 3.1 For the reasons set out in the case officer's report and this statement, the C4 HMO use has not been established in the planning history and the appellant has failed to provide the appropriate level of detail regarding the operational management and the specific need of the proposal and it has not been demonstrated that the occupants of the proposed Class C2 children's care home would be provided with levels of care as defined in Article 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). In the absence of sufficient justification and when weighed against the loss of a single dwelling in use class C3, the principle of the development is considered to be unacceptable. The development therefore conflicts with Policies DMH 1 and DMH 8 of the Hillingdon Local Plan Part 2 - Development Management Policies (2020) and Policy H12 of the London Plan (2021).
- 3.2 As such, the Inspector is respectfully requested to dismiss the appeal.
- 3.3 In the event that the Inspector considers the appeal should be allowed, and without prejudice to the Council's case, a list of recommended planning conditions is included at Appendix 1.

Appendix 1 - The LPA's Recommended Conditions

For the reasons set out in this appeal statement, the Inspector is respectfully requested to dismiss the appeal. In the event that the Inspector is minded to allow the appeal, the Council ask that the following conditions be considered for inclusion on any planning permission:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, Site Location Plan, MA60/020/001A and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions of the Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

3 Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking and re-enacting either of these orders with or without modification), the building shall be used only for the purpose of a Children's Care Home and for no other purpose including any other purpose within Use Class C2 of the Town and Country Planning Use Classes Order 1987 (as amended).

REASON

To enable the Local Planning Authority to retain control over the use so as to ensure that it complies with Policies DMHB 8, DMHB 11, DMT 1, DMT 2 and DMT 6 of the Hillingdon Local Plan Part 2 - Development Management Policies (2020) and Policy D13 of The London Plan (2021).

4 Prior to occupation of the development hereby permitted, 1 'active' and 1 'passive' electric vehicle charging points and 1 secure and accessible cycle parking space shall be provided and retained in perpetuity.

REASON

To ensure the provision of adequate facilities and promote sustainable modes of transport in accordance with Policies T5 and T6 of the London Plan (2021).

INFORMATIVES

1 The Equality Act 2010 seeks to protect people accessing goods, facilities and services from discrimination on the basis of a 'protected characteristic', which includes those with a disability. As part of the Act, service providers are obliged to improve access to and within the structure of their building, particularly in situations where reasonable adjustment can

be incorporated with relative ease. The Act states that service providers should think ahead to take steps to address barriers that impede disabled people.

2 You are advised that the use hereby approved for a Residential Care Home for Children should be registered with Ofsted and Care Quality Commission, prior to the commencement of the use. Further information can be found on www.ofsted.gov.uk and www.cqc.org.uk