

Authorised Designs Ltd

Planners, Surveyors & Development Consultants

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

APPELLANTS: Mr Malkit Purewal

SITE: 47 Fairfield Road, West Drayton, Hillingdon, UB7 8EY

PROPOSAL: Application for a Certificate of Lawful Development for the change of use from a dwellinghouse (Use Class C3) to a 6-bed House of Multiple Occupancy (Use Class C4)

LPA REFERENCE: 70257/APP/2014/4230

DATE: March 2015

1.0 INTRODUCTION

1.1 This statement has been prepared by Authorised Designs Ltd on behalf of Mr Malkit Purewal and is submitted in support of the appeal lodged against the refusal of lawful development certificate application 70257/APP/2014/4230.

1.2 The application was validated on 5th December 2014 and sought a lawful development certificate application for the change of use of the dwellinghouse into a House in Multiple Occupation (HMO) for 6no. persons. The application was refused under delegated authority on 22nd January 2015 for the following reason:

1) *The proposed development does not constitute permitted development by virtue of the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) as the existing use of the property is not a dwellinghouse as defined within the Town and Country Planning (General Permitted Development) Order 1995 as amended.*

1.3 For clarification, the Council's concern appears to be that the building comprises 6 self-contained bedsits rather than a house in multiple occupation, with the Council therefore contending that the change of use to 6 self-contained units would require planning permission. The following section will demonstrate that the Council's approach is incorrect and will establish that the building does comprise a house in multiple occupation for 6no. persons and that a lawful development certificate should therefore be granted.

2.0 THE APPELLANTS CASE

2.1 The Council's approach is fundamentally flawed with the assessment having not been based on an internal inspection of the building and having no regard to the layout shown on the submitted plans.

2.2 The plans submitted with the application clearly show that the building comprises three ensuite bedrooms at ground floor, two ensuite bedrooms and a communal kitchen at first floor and with an ensuite bedroom in the loft space. The building has been inspected by the Council's Principal Environmental Housing Surveyor, with a HMO licence having been issued by the Council's Housing Department on 16th February 2015, a copy of which is attached at

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Appendix A. It is clear that a HMO licence would not have been granted by the Council's Housing Department if they did not consider, following a site inspection, that the building did indeed comprise a House in Multiple Occupation.

2.3 For the avoidance of any doubt, the Government defines a HMO (taken from www.gov.uk/private-renting/houses-in-multiple-occupation) as a building in which at least 3 tenants live there, forming more than 1 household and in which they share toilet, bathroom or kitchen facilities with other tenants. It is pertinent to point out that the Government definition does not state that the tenants must share bathroom and kitchen facilities but either bathroom or kitchen facilities. Moreover, the definition does not state that a communal lounge area must be provided. The Government provides a further definition of a large HMO stating that this involves buildings at least three storeys high, where at least 5 tenants live together, forming more than 1 household and sharing toilet, bathroom or kitchen facilities with other tenants. It is again clear that the Government does not expect tenants to share bathroom and kitchen facilities or a communal living lounge. In this particular instance, the tenants share a communal kitchen with none of the bedrooms having been provided with cooking facilities.

2.4 The 2004 Housing Act (see **Appendix B**) also provides a similar test for establishing whether a building is a HMO. The Act states that to pass the test the building or part of the building must consist of one or more units of living accommodation that is not a self-contained flat or flats and that the living accommodation must be occupied by more than one household who share one or more of the basic amenities (i.e. toilet, washing facilities and cooking facilities) or the accommodation is lacking in one or more of these amenities. In contrast with the HMO test the extract attached at **Appendix B** clarifies that the converted building test (i.e a building which has been partly converted into self-contained flats but which also contain living accommodation that is not within a self-contained flat) has no requirement that the occupiers share a basic amenity or that there is an amenity lacking. Again, in this instance it is clear that the appeal building does meet the test for a HMO, as described above, as the ensuite bedrooms do not contain cooking facilities and share a communal kitchen. The tenants therefore share the basic amenity of cooking facilities and subsequently the bedroom accommodation is clearly lacking in the basic amenity of cooking facilities.

- 2.5 The Council's stance with regard to HMO's is a source of frustration to the Appellant, as their approach is not consistent across the Borough. In many cases lawful development certificates have been granted for virtually identical proposals, wherein the Council accepted that the layout constituted a HMO. In another case at No. 40 Cowley Mill Road, Uxbridge, the Council took enforcement action with the appeal subsequently being allowed. In that situation the Council asserted that the property had been subdivided into three self-contained flats, raising concerns that the ensuite bedrooms contained a sink, despite no cooking facilities being provided and with the tenants using a communal kitchen. The Appellant pointed out in their grounds of appeal that in granting a lawful development certificate for HMO use of the property at No. 58 Cowley Mill Road (opposite No. 48) that the Case Officer's report states that even though each of the bedrooms have their own bathroom and kitchenettes that none of the bedrooms have the ability to provide washing or cooking facilities. A copy of the Case Officer's report for the lawful development certificate at No. 58 Cowley Mill Road is attached at **Appendix C**. The appeal at No. 40 Cowley Mill Road was subsequently part allowed with the Inspector stating that the property was used as a HMO (see **Appendix D**). The existing arrangement at the appeal property is very similar to that at Nos. 58 & 40 Cowley Mill Road which are considered to be HMO's and not self-contained flats.
- 2.6 In addition to the above examples the Appellant wishes to draw the Inspector's attention to another HMO example at 13 Villier Street, Uxbridge, wherein no communal space was provided other than a small kitchen. In that instance the Inspector stated that the bedrooms are of reasonable size and found no compelling grounds as to why the lack of a separate communal living room amounts to an inadequate living environment. Although the planning matter in question in that instance was not the same as the matter in this case, it is considered to be relevant that the layouts of the buildings are similar and that both the Inspector and the Council were satisfied that the use of only a small communal kitchen was sufficient so as to constitute a HMO.

3.0 SUMMARY

- 3.1 In summary, the evidence set out above clearly demonstrates that the building comprises a six person HMO. The Council have no evidence to suggest otherwise and the fact that the Council have issued a HMO licence following an internal inspection of the building is

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compelling. For the above reasons it is politely requested that this appeal is allowed and the certificate of lawfulness granted.