

Authorised Designs Ltd

Planners, Surveyors & Development Consultants



WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

APPELLANT: Ms Parminder Kaul

SITE: 31 Morello Avenue, Uxbridge, UB8 3ES

PROPOSAL: Conversion of the existing dwelling into to a 5 bedroom House in Multiple Occupation (Use Class C4))

LPA REFERENCE: 72026/APP/2018/2672

DATE: December 2018

1.0 INTRODUCTION

- 1.1 This statement has been prepared by Authorised Designs Ltd on behalf of Ms Parminder Kaul and is submitted in support of the appeal lodged against the refusal of planning application 72026/APP/2018/2672.
- 1.2 By way of background, the planning application was submitted on 11th September 2018 further to the refusal and subsequent dismissal of planning application 72026/APP/2017/1064, which sought retrospective planning permission for the conversion of the dwelling into a 6 bedroom house in multiple occupation (HMO).
- 1.3 For clarification, planning permission would not normally be required for such a change of use, however the appeal site is located within an area covered by an Article 4 Direction that removes permitted development rights for the conversion of dwellings into C4 HMO's. To recap, the purpose of the Article 4 Direction is to prevent a concentration of HMO's within the Uxbridge South and Brunel Wards with the Council stipulating that applications for changes of use to HMO's will only be permitted where they are located in an area wherein less than 20% of the properties are not already in HMO use and where less than 15% of the properties within 100m of street length either side of the site are already in HMO use.
- 1.4 To recap, in refusing the previous application, the Council raised no objection to the principle of the proposed change of use, with the Officer's report noting that there are no other registered HMO's within a 100m distance of the appeal site and stating that the proposal would not result in an over-concentration of HMO uses in the area, i.e. the Council did not raise any objections in relation to the very concerns to which the Article 4 Direction was introduced to address. In addition, the Council raised no objections to the impact on the character of the area. However the previous application was refused under delegated authority on 18th May 2017 for the following reasons:
- 1) *The proposal would fail to provide a satisfactory residential environment for the future occupants of the HMO given that the communal kitchen / lounge would achieve very poor levels of outlook and light. The proposal is therefore contrary to the Mayor of London's Housing Standards Minor Alterations to The London Plan (March 2016), Policies BE19 and BE20 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012) and the Council's adopted Supplementary Planning Document Houses in Multiple Occupation SPG (2004).*
 - 2) *The proposal would provide insufficient parking provision for the proposed use and would therefore result in an increase in on-street car parking in an area where such parking is at a premium thereby leading to conditions which would be detrimental to the free flow of traffic and to highway and pedestrian safety. The proposal is, therefore, contrary to Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two – Saved Unitary Development Plan Policies (November 2012), the Council's Supplementary Planning Guidance: Houses in Multiple Occupation and other non-self-contained housing and the Interim Planning Policy – Houses in Multiple Occupation in the Uxbridge South and Brunel Wards (May 2013).*

- 3) *The proposal would result in an overintensive use of the site to the detriment of the residential amenities of adjoining occupiers by reason of noise and disturbance. Therefore the proposal would be contrary to policies BE19, BE21 and OE3 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012) and the Council’s adopted Supplementary Planning Guidance Houses in Multiple Occupation (2004).*

1.5 The appeal was subsequently dismissed with the Inspector stating that the outlook from and the light level into the communal kitchen / lounge would not provide satisfactory living conditions for the occupiers. The Inspector also concluded that the property could be occupied by up to 11 persons (given that the application sought permission for a 6 bedroom HMO, not a 6 person HMO), which would represent a significant intensification of the use of the property, leading to levels of noise and disturbance which would adversely affect the living conditions of neighbouring occupiers. Notwithstanding the dismissal of the appeal, it is pertinent to note that the Inspector raised no objections in relation to the parking provision or highway safety. For ease of reference a copy of the previous application decision notice is enclosed at **Appendix A** and a copy of the previous appeal decision is enclosed at **Appendix B**.

1.6 The current appeal application was submitted on 11th September 2018 and sought to overcome the concerns of the previous appeal Inspector. In comparison with the previous scheme, the current appeal application proposed to rearrange the ground floor space so that the previous ground floor back left bedroom (bedroom 2 on the previously submitted plans – a copy of which is enclosed at **Appendix C**) would now become a lounge off of the large open plan kitchen, therein providing a communal living space with a rear facing window which would provide sufficient light and outlook. It would also result in the loss of a bedroom space and the application specifically sought permission for a 5 bedroom HMO with the maximum occupation by 6 persons. Despite the re-arranged layout clearly overcoming the Inspector’s concerns about the communal space not being served by sufficient levels of outlook and light and despite the application now seeking a maximum occupancy by 6 persons rather than 11 persons, the application was still refused on 5th November 2018 for the following reasons:

- 1) *The proposal would fail to provide a satisfactory residential environment for the future occupants of the HMO given that the communal kitchen / diner would achieve very poor levels of outlook and light. The proposal is therefore contrary to Policy 3.5 of the London Plan (2016), the Mayor of London’s Housing Standards Minor Alterations to The London Plan (March 2016) and Policy BE20 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012).*
- 2) *The proposal would result in an overintensive use of the site to the detriment of the residential amenities of adjoining occupiers by reason of noise and disturbance. Therefore the proposal would be contrary to policies BE19, BE21 and OE3 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012) and the Council’s adopted Supplementary Planning Guidance Houses in Multiple Occupation (2004).*
- 3) *The proposal fails to provide a satisfactory level of amenity to the occupants of a habitable bedroom by way of a substandard floor area contrary to Policy 3.5 of the London Plan (2016), the Mayor of London’s Housing Standards Minor Alterations to The*

London Plan (March 2016) and Policies BE19 and BE21 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012).

- 1.7 This grounds of appeal will address the main concerns within the reasons for refusal, notably:
- Whether the HMO would provide an acceptable standard of accommodation for future occupiers; and
 - Whether the HMO use would be of detriment to the residential amenities of the occupiers of the neighbouring properties.
- 1.8 To set some context, this statement will first provide a description of the appeal site, the surrounding area and the proposed development. This statement will then discuss the relevant national and local planning policy before setting out the Appellant's case and responding to the Council's concerns.

2.0 THE SITE, THE SURROUNDING AREA & THE PROPOSED DEVELOPMENT

- 2.1 The appeal site comprises a two storey semi-detached house on the north-western side of Morello Avenue, a residential road within the developed area of Hillingdon. The site is not located within the Green Belt, within a Conservation Area or within an area designated as being of special character. Moreover, neither the appeal building nor any of the surrounding buildings are listed. The road is residential in character generally comprising of two storey semi-detached houses of fairly uniform size and design. The appeal property features an existing single storey rear extension.
- 2.2 The appeal application sought planning permission to change the use of the building from a dwellinghouse to a 5no. bedroom HMO for maximum occupancy by 6no. persons, featuring two ensuite bedrooms, a separate communal lounge and an open plan communal kitchen / diner at ground floor and three bedrooms (two of which contain ensuite bathrooms) and a communal bathroom at first floor level.

3.0 RELEVANT PLANNING POLICY

- 3.1 The appeal application fell to be assessed against the Policies of the Hillingdon Local Plan. The reasons for refusal refers to Policies BE19, BE20, B21 & OE3 of the Local Plan and to the Council's adopted Supplementary Planning Document: Houses in Multiple Occupation SPG (2004) and to the Council's Interim Planning Policy – Houses in Multiple Occupation in the Uxbridge South and Brunel Wards (May 2013). The following paragraphs provide a brief summary of the relevant policies.

The Local Plan

- 3.2 Policies BE19, BE20, B21 & OE3 of the Local Plan are referred to within the reasons for refusal.

Policy BE19 – Residential Amenity

- 3.3 Policy BE19 states that the Council will seek to ensure that new development within residential areas complement or improve the amenity and character of the area. In this instance the proposed change of use would have no impact on the amenity and character of the area. The Council acknowledge this within the Committee Report. As such this policy is not directly relevant to the reason for refusal and the change of use would not be contrary to Policy BE19.

Policy BE20 – Residential Amenity

- 3.4 Policy BE20 states that buildings should be laid out so that adequate daylight and sunlight can penetrate into and between them and the amenities of existing houses are safeguarded. This policy is of no relevance to the appeal case as no new building is proposed to be laid out. The proposal cannot possibly be contrary to this policy.

Policy BE21 – Residential Amenity

- 3.5 Policy BE21 sets out that planning permission will not be granted for new building or extensions which by reason of their siting, bulk and proximity would result in a significant loss of residential amenity. This policy is again of no relevance to the appeal case as no new building or extension is proposed. As such the proposal cannot possibly be contrary to this policy.

Policy OE3 – Noise

- 3.6 Policy OE3 refers to noise and states that buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact is mitigated within acceptable levels by engineering, lay-out or administrative measures.

The Houses in Multiple Occupation SPG 2004

- 3.7 The House in Multiple Occupation SPG was adopted in 2004 and appears to be somewhat out of date. It is certainly unclear as to how much weight can be afforded to this document. Although the document sets out minimum room sizes, against which the proposed HMO fully complies, the document makes no reference to it being unacceptable for the communal living space to only be served by side facing windows.

4.0 THE APPELLANTS CASE

Introduction

- 4.1 The Appellant's case will focus on the central concerns of the reason for refusal, notably whether the HMO would provide an acceptable standard of accommodation for future occupiers and whether the HMO use would be of detriment to the residential amenities of the occupiers of the neighbouring properties. This case will demonstrate that the proposed HMO would provide an entirely acceptable standard of accommodation, which would not be of any harm to the amenities of the neighbouring properties.

Standard of Accommodation

- 4.2 It is clear from the previous appeal decision that the previous Inspector's concern was solely in relation to the communal kitchen / lounge not being provided with sufficient levels of light and outlook. For the avoidance of any doubt whatsoever the Inspector raised no objection to the bedroom sizes and nor were any concerns raised in this regard by the

Council previously. It is therefore entirely inconsistent and unreasonable for the Council to now raise an additional concern regarding bedroom sizes.

- 4.3 With regards to the previous concern regarding the light and outlook to and from the communal kitchen / lounge, this issue has now clearly been addressed by the creation of a communal lounge at the rear (in lieu of one of the bedrooms), off the existing kitchen. The lounge would be served by a rear facing window which would provide sufficient light and outlook and no door would separate the lounge from the kitchen meaning that the kitchen would be served by additional light. Mindful that the kitchen is not a habitable space (unlike a bedroom or lounge) there should be no concern raised solely in relation to the amenities of the kitchen as the communal lounge would provide the main habitable communal space. Moreover, it is not uncommon for kitchens to only be served by side facing windows and doors (very common in bungalows for example) and there are no policies or guidance which states that ground floor kitchens with side facing windows will be unacceptable.
- 4.4 With regards to the bedroom sizes, mindful that no objections were raised in this regard previously, it not considered to be valid for the Council to ignore the Inspector's previous decision and to raise a new concern in this regard now.
- 4.5 As a final point it is clear from the Case Officer's report and from the reasons for refusal that the Council do not object to the principle of the change of use. The Council also previously noted within the first application, that the Council's own HMO Officer has indicated that the facilities provided for the occupants of the HMO are acceptable.

Neighbour Impact

- 4.6 The Council's concern in this regard is that the use of the property as a 5 bedroom HMO would lead to greater levels of noise and disturbance than could be reasonably expected to be generated if the property was to be occupied by a family. In response it is crucial to highlight that the Inspector's specific concern previously was in relation to the fact that the previously proposed HMO could have been used for up to 11 persons, which the Inspector considered would be a significant intensification of the use of the property in comparison with a single family dwelling.
- 4.7 In comparison with the previous scheme the current appeal application sought planning permission for a 5 bedroom HMO with a maximum occupancy of 6 persons. The occupancy of the proposed HMO by no more than 6 persons would quite clearly result in a less intensification of use than a 11 person HMO and it is asserted that a 6 person HMO would have no greater impact than if the house were to be occupied by a large multi-generation family (which could comprise more than 6 persons), who could use more cars and lead to more comings and goings than the 6 person HMO use. The Appellant acknowledges that the area is a fairly quiet residential area and maintains that it is unlikely that it would ever be known that the property was in use as a HMO. As such the proposed use would not be contrary to planning policy in this respect.

5.0 SUMMARY

- 5.1 The Appellant considers that the Council have adopted a negative approach, failing to correctly assess the proposal against the relevant planning policy and guidance.

Furthermore, the Council have not fully taken into account the positive contribution that this HMO would make. It is clear that HMO's can make an important contribution to housing provision, making a more efficient use of buildings. It must not be ignored that there is a pressing need for more homes in London and for cheaper, smaller, more affordable units of accommodation to meet the needs of people at a price they can afford. Policy 3.8 of the London Plan refers to Housing Choice and sets out that Londoners should have a genuine choice of homes that they can afford. Whilst the Council may express an objection to HMO accommodation in general, ultimately there is a market for small units of accommodation. In this instance, the rooms are finished to a very high standard and provide the highest quality affordable accommodation for single people, which meet the requirements of the Building Regulations and the Housing Licence requirements and which would provide an entirely acceptable level of amenity for the occupants. Indeed, the accommodation is to a far higher standard than would normally be expected for HMO accommodation. The proposed HMO would also be of no detriment to the visual amenities of the building or the character and appearance of the area and the proposal fully complies with the relevant local planning policies and guidance.

- 5.2 It is also pertinent to note that the Council do not object to the principle of the change of use and specifically raise no objection on the grounds that the use would lead to a concentration of HMO uses in the area. As such, the change of use does not give rise to the concerns which have led the Council into applying an Article 4 Direction in the first place and it cannot be ignored that the proposed use would not even require planning permission if located within other parts of the Borough. Although the Article 4 Direction results in a requirement for planning permission to be granted for such uses, it should not be used as a tool to refuse applications (due to the neighbours having been vociferous in their objections) which would otherwise be acceptable having regard to the rationale behind the making of the Article 4 Direction.
- 5.3 The proposed change of use would not be contrary to any specific requirements within the policies of the Local Plan and the National Planning Policy Framework (NPPF) states that decision-takers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development. Mindful that the proposed change of use would not be contrary to national or local planning policy, for the above reasons it is politely requested that this appeal is allowed.