



Appeal Decision

Site visit made on 2 November 2023

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Appeal Ref: APP/R5510/W/23/3319240

14 Devon Way, Uxbridge UB10 0JS

- 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 Sanjay Kumar against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 27994/APP/2021/3581, dated 21 September 2021, was refused by notice dated 8 February 2023.
- The development is described as "Change of use from C4 house in multiple occupancy (HMO) to sui generis HMO (7 bed and 7 persons) with no external alterations".

Decision

1. The appeal is allowed and planning permission is granted for the change of use from Class C4 house in multiple occupation (HMO) to sui generis HMO for 7 beds and 7 persons with no external alterations at 14 Devon Way, Uxbridge UB10 0JS in accordance with the terms of the application, Ref 27994/APP/2021/3581, dated 21 September 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2020-14DV-BC-1 rev 1.0B, 2020-14DV-BC-2 rev 1.0B, 2020-14DV-BC-3 rev 1.0B, 2020-14DV-BC-4 rev 1.0B and 2020-14DV-BC-5 rev 1.0B.
 - 2) The use of the site hereby permitted, as a sui generis HMO, shall cease within 2 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 2 months of the date of this decision a scheme for bicycle parking together with waste and refuse storage shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Preliminary Matters and Main Issue

2. The description of development in the heading is taken from the planning application form. However, I have amended the description for the decision in paragraph 1 of this letter so that it accurately reflects the wording for Class C4 within The Town and Country Planning (Use Classes) Order 1987, in the interests of precision and certainty.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. The appellant and the Council were given an opportunity to comment on this during the appeal process. I have determined the appeal in light of the representations made and the revised Framework.
4. The appeal site includes a detached chalet bungalow that fronts onto Devon Way. There are areas of hardstanding to the front and rear. An outbuilding is located to the rear of the bungalow, which is identified as an annexe on the submitted plans.
5. I noted at the site visit that the change of use of the bungalow to create a 7-bed 7 person HMO had already taken place. I have proceeded on the basis that permission is being sought retrospectively for the change of use shown on the plans submitted with the application.
6. The Council's decision notice contains 6 reasons for refusal. Of these, five relate solely to the outbuilding. The sixth refusal reason, which relates to both the bungalow and the outbuilding, raises concerns regarding highway safety with particular regard to on-street parking.
7. However, it is clear from the submitted plans that the outbuilding does not form part of the application. The description of development, together with information on the application form, further confirm the appellant's intention to exclude the outbuilding from the scheme. From my site visit observations, there was no indication the family occupying the outbuilding were responsible for the management of the bungalow as an HMO. Even if this were the case, the outbuilding is physically separate from the bungalow and the Council alleges that a separate planning unit has been created. As such, there is nothing before me which indicates that an independent assessment of the change of use to the bungalow cannot be undertaken.
8. The Council alleges that the outbuilding, previously the subject of a certificate of lawfulness, is unauthorised. However, it is not the role of this appeal to determine the lawfulness or otherwise of the outbuilding and, irrespective of the outcome of the appeal, it would be open to the Council to take steps to enforce against any alleged breaches of planning control in relation to the outbuilding.
9. The Council's delegated officer report also raises a question over the lawfulness of works to a former outbuilding to the front of the appeal site that facilitated the conversion of the bungalow into a HMO, but assesses and does not raise concerns regarding that element specifically. At the time of my visit, it was

linked to the bungalow and was in use as bedroom 6. The submitted plans do not show any external changes to the bungalow and the description of development specifically states no external changes are included. In any case, I am required to assess the proposal on the basis of the submitted plans. Having regard to the above factors, the development which falls to be considered as part of this appeal is the change of use of the bungalow to a sui generis HMO, through the provision of an additional bedroom, only.

10. The main issue in this case therefore is the effect of the intensified residential use of the bungalow on highway safety, with particular regard to on-street parking.

Reasons

11. The appeal site lies within a Controlled Parking Zone, within which on-street car parking is restricted to permit parking. There are yellow lines preventing parking outside of the parking spaces. The area of hardstanding to the front of the appeal site provides off-street parking for 2 vehicles. There are also existing parking controls in place on Devon Road, as well as other roads local to the appeal site, in the form of residents parking bays and single yellow lines.
12. The intensified residential use of the bungalow has resulted in one additional bedroom and occupier compared with the previous position. The Council's delegated officer report refers to an increase in parking demand, being generated in part, by the outbuilding, however, the appeal scheme does not include any change to the outbuilding. As such, any increase in car ownership is negligible as a result of the scheme.
13. At the time of my site visit which took place late morning, parking spaces were available on Devon Way and surrounding roads. Although I accept that this reflects one point in time and may not be reflective of other days and times, there is no other evidence before me to indicate that a high level of parking stress exists. Nor is there any evidence of a lack of capacity of additional parking in the CPZ. Moreover, there is no evidence before me of any restrictions preventing the occupants of the original 6 rooms from applying for on-street parking permits. In the absence of any substantive evidence indicating a high level of parking stress or capacity issues within the CPZ, there is no evidence to indicate that the negligible increase in car ownership that may have occurred as a result of this scheme is generated inconsiderate or hazardous parking.
14. Policy T6 of the London Plan advises that outside of areas well connected by public transport, developments should be designed to provide the minimum necessary parking. In this case, the Public Transport Accessibility Level is 2, which is a low score in terms of access to public transport and a low level of parking is provided to the front of the bungalow.
15. In the absence of any evidence of on-street parking capacity issues and given there are no restrictions on the existing occupiers from obtaining permits, there is insufficient justification for preventing the occupiers from applying for permits. A draft, unsigned unilateral obligation has been submitted in support of the appeal, however, given the lack of justification for a planning obligation, there is no need to consider this further.

16. In conclusion, the intensified residential use is acceptable in terms of highway safety. The proposal therefore complies with Policy DMT 1, DMT 2 and DMT 6 of the London Borough of Hillingdon Local Plan Part 2 Development Management Policies, as well as Policies T4, T6 and T6.1 of the LP (2021) and paragraph 115 of the National Planning Policy Framework. These policies and national guidance, require development, amongst other matters, to avoid any significant adverse transport impacts, be accessible by non-car modes, and avoid a deleterious impact on street parking provision.

Conditions

17. A plan numbers condition (condition 1) is required in the interests of clarity. Condition 2 is imposed to ensure that the cycle parking together with waste and recycling storage details, are submitted, approved and implemented so as to make the change of use acceptable in planning terms and such to promote sustainable travel. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the relevant details before the change of use, or occupation, take place.
18. The condition will ensure that the change of use can be enforced against if the requirements are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented within an approved timetable. The timescales within the condition provide reasonable opportunities for compliance in the circumstances of this case.

Conclusion

19. For the reasons given above, and having regard to all other matters, I conclude that the appeal scheme complies with the development plan and that the appeal is allowed, subject to conditions.

R Lawrence

INSPECTOR