

Appeal Decision

Site visit made on 16 May 2023

by **A Caines BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/R5510/W/22/3313466

46 Bath Road, Heathrow UB3 5AH

- 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 M Johar and Mr R Gidwani against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 24469/APP/2022/2556, dated 12 August 2022, was refused by notice dated 7 October 2022.
 - The development proposed is change of use from 6 room house in multiple occupation (HMO) (Use Class C4) to 8 room HMO (sui generis) including the provision of car parking, amenity space, refuse/cycle storage and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from 6 room HMO (Use Class C4) to 8 room HMO (sui generis) including the provision of car parking, amenity space, refuse/cycle storage and associated works at 46 Bath Road, Heathrow UB3 5AH, in accordance with the terms of the application Ref 24469/APP/2022/2556, dated 12 August 2022, subject to the conditions in the schedule to this Decision.

Background and Main Issue

2. A previous appeal at the site¹ was dismissed on grounds of inadequate garden space and poor levels of outlook and daylight to bedroom 7. The Council is satisfied that the subsequent amendments to the site configuration have overcome its concerns in relation to outlook and light, but concerns still remain over the adequacy of the garden space. No other matters are in dispute.
3. Thus, the **main issue** in this appeal is whether the development would provide its occupants with adequate garden space.

Reasons

4. On the evidence that is before me, material changes have been made to the amount and layout of the garden space compared to the previous appeal scheme. This includes a reduction in the number of parking spaces, the removal of a walkway at the side of the house, and other layout and landscaping improvements. I also note the reduction in the number of occupants from 10 to 8, which can be controlled by an appropriate planning condition.
5. The Council nevertheless maintains its position that the amount of useable garden space at the rear falls short of the standards set out in Policy DMHB18 of the Hillingdon Local Plan: Part 2-Development Management Policies 2020

¹ Appeal ref: APP/R5510/W/20/3262001

(the DMP). Policy DMHB18 requires the provision of good quality and useable private outdoor amenity space in accordance with the standards set out in table 5.3 of the policy. For houses with 4 or more bedrooms, a minimum of 100 m² of garden space is required, though it remains unclear whether the same standard should be applied to HMOs.

6. By the Council's measurements, the useable rear garden area would be approximately 60 m². However, from my reading of the planning officer's report this measurement does not seem to have included the area at the side of the house on account that it was considered too narrow to be useable. The appellant gives a different measurement of 118 m², but again it is not entirely clear how this has been calculated. Either way, a judgement is still required in relation to the quality of the provision.
7. At the time of my site visit the rear garden was already laid out in a manner which seemed to correspond to the proposed plans. I saw that this provides an attractive, spacious area for the occupants to enjoy, with direct access from the communal living spaces, a good level of privacy and sunlight, as well as clear segregation to the parking spaces. The grassed area to the side of the house was not, in my view, too narrow, and thus forms a useful addition to the useable garden space, such that it should reasonably be included in the overall amount of garden space being provided. However, without precise measurements I cannot say for certain whether this would result in a garden area of at least 100 m² being achieved.
8. Having regard to all the above, it is my judgement that the development would provide its occupants with good quality and useable private garden space, notwithstanding the uncertainty over the precise measurements. As such, the proposal complies with the overarching objectives of DMP Policy DMHB18. The proposal also complies with DMP Policy DMHB11 where it requires the provision of well-designed external spaces.

Conditions

9. The conditions suggested by the Council have been assessed against the guidance contained in the National Planning Policy Framework and Planning Practice Guidance, and I have imposed only those conditions which meet the relevant tests.
10. In addition to the standard commencement and approved plans conditions, a condition restricting the number of occupants to that applied for would provide certainty. However, I have not been provided with clear justification for the blanket removal of permitted development rights at the site. Instead, I shall impose an amended condition which only restricts outbuildings and other structures falling under Class E of Schedule 2 (Part 1) of the General Permitted Development) (England) Order 2015. This is necessary to ensure that sufficient garden area is retained for the occupants.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed.

A Caines

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 01-001; 02-002; 04-001; 04-002; 06-001; LAN-001; HMO Management Plan.
- 3) The use of the property as a house in multiple occupation shall not exceed more than 8 residents at any one time.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification); no development permitted by Class E of Schedule 2 (Part 1) of that Order shall be undertaken at the site without the grant of planning permission.

****End of schedule****