

PLANNING APPLICATIONS COMMITTEE **15 FEBRUARY 2024**

CASE OFFICER REPORT

APPLICATION NO. **DATE VALID**
23/P3138 10/11/2023

Site Address: 153 Links Road, Tooting, SW17 9EW

Ward: Graveney

Proposal: CHANGE OF USE OF 6 BED HOUSE IN MULTIPLE
OCCUPATION (USE CLASS C4) TO A 7 BED HMO (SUI
GENERIS).

Drawing Nos: See condition 2

Contact Officer: Leigh Harrington (020 8545 3836)

RECOMMENDATION

GRANT Planning permission subject to conditions and a s106 agreement

CHECKLIST INFORMATION

Is a screening opinion required	No
Is an Environmental Statement required	No
Press notice	No
Site notice	Yes
Design Review Panel consulted	No
Number of neighbours consulted	26
External consultations	No
Internal consultations	Yes
Controlled Parking Zone	Yes CG
Conservation Area	No
Archaeological Priority Zone	No
Public Transport Accessibility Rating	2
Tree Protection Orders	No

1. INTRODUCTION

- 1.1 The application has been brought before the Committee at the request of Councillor Mundy as a previous application for a 7 bedroom, 7 person HMO at this site (LBM Ref 22/P1990) was refused by members at the 20th October 2022 committee meeting. A subsequent application for a 6 bedroom, 6 person HMO was approved by members at the 16th March 2023 committee meeting (LBM Ref 23/P0237).
- 1.2 The planning application, which was refused by members for a 7 bedroom, 7 person HMO (22/P1990) was appealed (Appeal Ref: APP/T5720/W/23/3315683) and dismissed by the Planning Inspector on a solely technical matter, in so far as the appellant failed to provide a signed and completed legal agreement (Unilateral Undertaking (UU) with the appeal to cover the permit free requirement). In all other respects, the scheme was considered to be acceptable and policy compliant by the inspector (appeal decision attached as Appendix 1).
- 1.3 It must be noted that the application before members of the planning committee is identical to the scheme considered at appeal (22/P1990), other than the removal of the internal chimney breast and a slight change to the alignment/position of an internal wall to bedroom 1 (which increases the bedroom size and improves layout and is the same physical layout in terms of room sizes as the 6 bedroom scheme approved by members). As set out above, given the fact that the planning appeal was only dismissed on the technicality, members must treat the appeal decision as a very strong material planning consideration.

2. SITE AND SURROUNDINGS

- 2.1 The application site is an end terrace house located on the north side of Links Road at the junction with Jersey Road in Tooting. The rear of the property has now been subdivided such that the rear garage structure no longer relates to this site. The property is in use as a six bedroom House in Multiple Occupation and it benefits from a hip to gable and rear roof dormer extension.
- 2.2 The site is not located within a conservation area nor is it in anyway listed. The site is located within the GC controlled parking zone and has a public transport accessibility level (PTAL) of 2 (0 being the lowest and 6b being the best).

3. CURRENT PROPOSAL

- 3.1 The proposals are for change of use of 6 bed house in multiple occupation (use Class C4) to a 7 bed HMO (Sui Generis).

- 3.2 On the ground floor there would be a single occupancy ensuite bedroom to the front with a communal kitchen/dining room and a living room to the rear with access out to the recently re-turfed communal garden, bike and bin stores.
- 3.3 The first floor would accommodate 4x single bedrooms, two of which would be ensuite. The room that was previously approved as a study room providing working from home space is again proposed as a single bedroom to the front.
- 3.4 The roof extensions would accommodate 2 single ensuite bedrooms and a bathroom for the two non-ensuite bedrooms on the first floor.
- 3.5 There are no new additions or physical exterior changes proposed to the building.

History

(Comparison between 6 bedroom HMO (23/P0237) and 7 bedroom HMO)

- 3.6 As part of the approval (LBM Ref 23/P0237) by members of the Planning Applications Committee for the conversion of the property to a 6 bedroom, 6 person HMO one of the first floor rooms was proposed to be left as a work/study space to assist residents with a space to work from home without the need to work from the confines of their bedrooms. This was in response to a previous refusal by members (LBM Ref 22/P1990) for a 7 bedroom HMO.
- 3.7 The application before members seeks to now change the workspace into a bedroom, therefore taking the HMO from a 6 bedroom, 6 person to a 7 bedroom, 7 person HMO. This is the same arrangement as the refused scheme (LBM Ref 22/P1990) but is now accompanied by a completed s106 agreement for permit free development)

4. PLANNING HISTORY

- 4.1 23/P0237 APPLICATION granted by PAC FOR CHANGE OF USE FROM C3 (DWELLINGHOUSE) TO C4 6 RESIDENT (House in Multiple Occupation)
- 4.2 22/P1990 APPLICATION refused by PAC FOR THE PROPOSED CHANGE OF USE OF A DWELLING HOUSE TO A 7-BED (7 PERSON) HOUSE IN MULTIPLE OCCUPATION. Reason for refusal;

The proposed House in Multiple Occupation by reason of design, layout and quantum of occupancy is considered to represent a poorly designed overdevelopment of the site resulting in unacceptable impacts in terms of poor quality living conditions & amenity for future occupiers and waste management arrangements contrary to London Plan 2021 Policy H9,

Merton Sites and Policies Plan 2014 policy DM D2 and Merton Core Strategy 2011 policy CS17.

Appeal Ref: **APP/T5720/W/23/3315683** dismissed at appeal solely on the grounds that no Permit free s106 agreement had been entered into.

- 4.3 22/P3238 APPLICATION withdrawn FOR A LAWFUL DEVELOPMENT CERTIFICATE IN RESPECT OF THE PROPOSED CHANGE OF USE FROM C3 (DWELLINGHOUSE) TO C4 6 RESIDENT (HMO)
- 4.4 22/P1537 APPLICATION refused FOR A LAWFUL DEVELOPMENT CERTIFICATE IN RESPECT OF THE PROPOSED CHANGE OF USE FROM C3 (DWELLINGHOUSE) TO C4 (HMO) AND THE ERECTION OF A SINGLE STOREY REAR EXTENSION. Reasons for refusal

The proposed level of occupation with 8 bedrooms would exceed the 3-6 occupier threshold as set out in Class C4 (Houses in multiple occupation) of The Town and Country Planning (Use Classes) Order 1987 (As amended). The proposed development would therefore be Sui Generis (Large Houses in multiple occupation) for which planning permission would be required.

And

The proposed single storey rear extension would not constitute an extension to a dwellinghouse as permitted by Schedule 2, Part 1, Class A (enlargement, improvement or other alteration of a dwellinghouse) of the Town and Country Planning (General Permitted Development (England) order 2015 (as amended). Planning permission would therefore be required.

- 4.5 22/P1279 LAWFUL DEVELOPMENT CERTIFICATE issued IN RESPECT OF THE PROPOSED ERECTION OF A SINGLE STOREY REAR EXTENSION
- 4.6 21/P1096 APPLICATION UNDER SECTION 191 Withdrawn by applicant THAT THE USE OF GARAGE AT LAND TO THE REAR OF 153 LINKS ROAD AS STORAGE (USE WITHIN CLASS B8) IS LAWFUL FOR PLANNING PURPOSES
- 4.7 20/P3802 Planning permission granted for the PROPOSED DEMOLITION OF OUTBUILDINGS AND ERECTION OF A REPLACEMENT GARAGE.
- 4.8 06/P0490 CERTIFICATE OF LAWFULNESS issued FOR A PROPOSED REAR ROOF EXTENSION.

5. **CONSULTATION**

5.1 Consultation letters sent to 26 neighbouring properties and site notice posted. No letters of objection were received.

5.2 **The Council's HMO Officer**

Note - Commented on the previous 7 bedroom scheme application;

'Based on the information provided below we have no objections as it would meet our requirements/standards'. The team has received (02/03/2023) a licensing application for 4-7 residents.

5.3 **The Council's Waste Services;**

They will need to complete an updated HMO certificate and presentation will be kerbside wheeled bins presented as per the policy and in line with the other properties on Links and Jersey Roads.

5.4 **The Council's Parking Permits**

Confirmed that the allocation of parking permits is considered in the same way for family homes as they are for HMOs in that this is no limit on the number that can be applied for but the cost increases for each subsequent permit that is issued.

6. **POLICY CONTEXT**

Relevant policies in the London Plan 2021:

D3 Optimising site capacity through the design-led approach

D6 Housing quality and standards

D11 Safety and security

D14 Noise

H1 Increasing housing supply

H6 Housing standards

H9 Ensuring the best use of stock

T5 Cycling

T6.1 Residential parking

T4 Assessing and mitigating transport impacts

SI 7 Reducing waste and supporting the circular economy

Merton adopted Core Strategy (July 2011):

CS2 Mitcham Sub-Area
CS8 Housing Choice
CS9 Housing Provision
CS14 Design
CS15 Climate change
CS17 Refuse
CS18 Active transport
CS20 Parking, servicing and delivery

Merton adopted Sites and Policies Plan (July 2014):

DM H5 Student housing, other housing with shared facilities and bedsits
DM D2 Design considerations in all developments
DM D3 Alterations and extensions to existing buildings
DM EP2 Reducing and mitigating noise
DM T1 Support for sustainable transport and active travel
DM T2 Transport impacts of development
DM T3 Car parking and servicing standards

Other guidance:

- London Housing SPG - 2023
- London Character and Context SPG - 2014
- Accessible London: Achieving an Inclusive Environment – 2014
- London Borough of Merton Houses in Multiple Occupation (HMO) Requirements (Revised July 2019)
- Waste and Recycling Storage Requirements, a Guidance note for Architects

7. PLANNING CONSIDERATIONS

7.1 Appeal Decision

7.1.1 As set out above, given the fact that the planning appeal relating to LBM ref 22/P1990 was only dismissed on the technicality (lack of UU being submitted with the appeal), members must treat the appeal decision as a very strong material planning consideration. Officers strongly advise members to fully take into consideration the appeal decision and should not deviate from that formal decision. The full appeal decision is attached as an appendix to this committee report for member information, however the relevant extracts below set out the Inspector's conclusions against the Councils refusal reasons:

Living conditions

5. The appeal property is a previously extended two storey end terrace dwelling at the junction with Jersey Road in a predominantly residential area. It has an enclosed rear garden with a pedestrian access gate onto Jersey Road.

6. In the approved planning application for six residents the seventh bedroom was to be used as a shared study area. Bedroom 2A, the seventh bedroom, measures approximately 9.3 square metres which exceeds the minimum standards for a single occupancy room. In addition, the shared kitchen and living room meet the standards in terms of space and are of sufficient size to accommodate 7 occupiers. There is also sufficient space in the rear garden to accommodate a secure cycle store. Although the proposal would result in an increase in occupiers from 6 to 7, this would not result in an overcrowded property due to the size of the bedrooms and shared living space and would not harm the living conditions of future occupiers.

7. I conclude that the proposal would provide appropriate living conditions for future occupiers. It would therefore conform with policy H9 of the London Plan (2021) and policy DMD2 of the Merton Sites and Policies Plan (2014) which together, amongst other matters, seek to ensure that development meets local housing need and provides appropriate quality of living conditions.

- 7.1.2 Officer comment – Other than the removal of the internal chimney breast and a slight change to the alignment/position of an internal wall to bedroom 1 (which increases the bedroom size, improves layout and is the same as approved by members LBM Ref 23/P0237), the scheme still complies with the above conclusions of the planning inspector.

Waste management arrangements

8. There is space in the rear garden for sufficient waste bins, including recycling facilities, for the proposed number of occupiers, as indicated on the submitted plans. There is also rear pedestrian access to the rear garden from Jersey Road to allow them to be made available for refuse collection. Although there are no details of proposals to make them less unsightly, due to the high fence surrounding the rear garden, they would not be visible from the street.

9. I conclude that the waste management arrangements are appropriate, and the proposal would conform to policy CS 17 of the Merton Core Strategy (2011) which, amongst other matters, seeks to ensure that new

development includes integrated and well-designed waste storage facilities.

- 7.1.3 Officer comment – The scheme before members still meets the above requirements.

Controlled Parking Zone

10. The proposed development makes no provision for on-site parking and there is the potential for it to generate demand for additional on street parking within the Controlled Parking Zone (CPZ). The appellant has indicated they would be willing to provide a UU as the mechanism to ensure occupiers would be prevented from obtaining a parking permit. However, even if I were to accept the details of such an obligation it is not a personal undertaking and therefore highly likely to be unlawful. A duly executed obligation is not before me. I do not consider that a condition would be sufficient to ensure that the development would be permit free as it would be unlikely to meet the tests of precision or enforceability.

11. In the absence of an appropriate and lawful mechanism to secure such, the proposal would not deliver a permit free development and would therefore compromise highway safety through increased parking pressure and potential additional vehicle movements to find parking spaces. It would therefore be contrary to Policy CS20 of the Core Planning Strategy (2011) which, amongst other things, requires developer to demonstrate that their development will not adversely affect on street parking and highway safety.

- 7.1.4 Officer comment – The applicant has provided a signed and completed legal agreement with the application to ensure that the property would be a permit free development. The current proposal has therefore overcome this element of the appealed scheme.

Conclusion

13. Whilst I have found that the proposal would provide appropriate living conditions for future occupiers and that the waste management arrangements are appropriate, there is no mechanism in place to ensure that the proposal would not increase parking pressure on the CPZ. Therefore, the proposal on balance conflicts with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding. For the reasons given above I conclude that the appeal should be dismissed.

- 7.1.5 Officer Conclusion – The scheme before members is materially identical to the above appeal decision (other than a slight increase to bedroom 1). The applicant

has now provided a fully completed legal agreement to cover the permit free development and therefore the proposed development is fully supported by officers due the conclusions of the Planning Inspector's formal decision.

- 7.1.6 For members information, please see the original planning considerations (section 7 only) below relating to the planning committee report (22/P1990). These remain unaltered given the appeal decision (no requirement to be revisited):

7. PLANNING CONSIDERATIONS

- 7.1 The principal planning considerations in this case relate to the impact that the proposed development would have on the existing building, the character of the local area, the impact that it would have on the amenity of neighbouring residents and future occupiers.

7.2 Principle

- 7.2.1 Policy CS 8 states that the Council will seek the provision of a mix of housing types, sizes and tenures at a local level to meet the needs of all sectors of the community. This includes the provision of family sized and smaller housing units, provision for those unable to compete financially in the housing market sector and for those with special needs. Property managed and regulated Houses in Multiple Occupation can offer good quality affordable accommodation to people who cannot afford to buy their own homes and are not eligible for social housing.
- 7.2.2 Policy H9 of the London Plan notes that HMO accommodation is a strategically important element of London's housing offer although it does acknowledge that it's quality can give rise to concern. In terms of the standard of accommodation for the HMO, this is largely addressed under Licencing requirements as opposed to through the planning system. Members will note within the planning history section of this report that the applicant applied for an 8 bedroom HMO under a lawful development certificate but this was refused. The application before members of the planning committee has been assessed on 7 bedrooms which are single bedrooms in terms of size and therefore designed for 1 occupant per bedroom, so a total of 7 persons. The level of occupancy would be set out in the decision notice and controlled via a planning condition. Should the applicant wish to increase the number of persons within the HMO this would be subject of a separate application and assessed on its own merits.
- 7.2.3 As a matter of background for members, where HMO applications have been refused elsewhere in the borough this has often been due to the high numbers of occupiers and the impact of so many people living in one property. In this instance the proposed level of occupancy is 7 persons, which is only one greater than would be allowable under permitted development.

7.3 **Impact on the existing building.**

7.3.1 The proposals do not involve any additions to the existing building. The additional facilities that would be required, namely the cycle storage and refuse facilities, would be accommodated in the rear garden from where there is direct access out to Jersey Road. The changes to the first floor rear fenestration involve blocking up an existing window and replacing it with a window to match the existing such that both windows appear to match. Consequently it is considered that the impact on the appearance of the existing building would be minimal.

7.4 **Impact on the character of the area.**

7.4.1 Policy DM H5 of the Site and Policies (July 2014) aims to create socially mixed communities, catering for all sectors of the community by providing a choice of housing with respect to dwelling size and type in the borough. The policy states that Houses in Multiple Occupation Housing will be supported provided that the following criteria are met:

- i. The proposal will not involve the loss of permanent housing;

Officer comment

The current lawful use of the existing application property is as a single dwelling and the current application involves the use of existing rooms. A house in multiple occupation is a form of permanent housing where occupants have their own bedrooms, have access to shared facilities and take care of their own everyday needs. Paragraph 2.59 in the Supporting text to the policy also states that short stay accommodation is intended for occupancy of less than 90 days. The proposal is therefore, considered acceptable in regard to this criteria.

- ii. The proposal will not compromise the capacity to meet the supply of land for additional self-contained homes;

Officer comment

The current application involves the use of existing building and will therefore not compromise any capacity to meet the supply of land for additional self-contained homes.

- iii. The proposal meets an identified local need;

Officer comment

The Merton Strategic Housing Market Assessment was commissioned by the Council to guide the Council's future housing policies including the adopted Sites and Policies Plan.

The report of the Housing Market Assessment findings advises that "Much of the growth of extra households in both the low and high estimates is expected to be single persons. For the low estimates there is projected to be a rise of 6,900 in number of non-pensioner single person households and 1,900 single pensioners in the period 2006-2026. The high estimates show there are projected to be rises of 7,900 non-pensioner single person households and 2,600 single pensioners". The assessment further advises that "The implication of this situation for younger person single households is that they create demand for the private rented sector and this in turn drives its growth. Given that the income of many single people is below the threshold for market housing there would be a considerable demand for intermediate affordable housing". The Housing Market Assessment found that much of the growth of extra households is expected to be single persons. The proposal is therefore considered to meet an identified local need.

- iv. The proposal will not result in an overconcentration of similar uses detrimental to residential character and amenity;

Officer comment

The application site is in an area of predominantly family housing and the submitted proposal for the house in multiple occupation will increase the range of residential accommodation that is available locally. Please note that the Housing Strategy Statistical Appendix (HSSA) 2007 for Merton estimated that only 0.55% of Merton's population live in communal residences whereas the London average was 1.8%, which means there is a significantly lower concentration of this type of accommodation in Merton compared to the rest of London.

In relation to numbers of registered HMOs in the area there are 25 in SW17, of which this would be the 6th in Links Road but this would only represent around 2.5% of the 265 houses in Links Road. In the CR4 2- - postcode area which covers much of Graveney Ward there are 63 registered HMOs, around 10 of which are in an adjoining ward (Figges Marsh). NB properties are registered by address and not ward but as an approximation there are around 75-80 Registered HMOs in Graveney Ward but smaller HMOs on only two floors do not have to be registered. Officers therefore consider that whilst there are other HMO's in the surrounding area, the prevailing properties remain either single family dwellings or flats, in this instance, there is no evidence that the conversion of this property into a HMO would result in an overconcentration.

It is noted that Councillor Kirby has raised concerns relating to the cumulative effect of high numbers of HMO premises in the borough and in particular in this ward. Members should note that there is currently a review of HMOs in the borough into whether an Article 4 Direction restricting them under permitted development (3-6 persons) can be justified. If the Article 4 Direction is adopted, this would not completely prevent HMO's, but would require all HMO's (regardless of the number of persons) within the affected areas to require full planning permission. The lead officer working of the Article 4 Direction confirmed that if adopted would not come in before next September and be restricted to certain wards within Merton.

Officer therefore consider that the proposal will not result in an overconcentration of similar uses and will not be detrimental to residential character. The impact of amenity is considered later will this assessed further later in this report.

- v. The proposal complies with all relevant standards;

Officer comment

The proposal complies with relevant standards including those set out in the London Borough of Merton Houses in Multiple Occupation (HMO) Requirements (Revised July 2021)

- vi. The proposal is fully integrated into the residential surroundings;

Officer comment

The current application does not include any external alterations other than a small repositioning of a first floor rear window. It is therefore considered that the proposal is fully integrated into the residential surroundings.

- 7.4 The Mayor of London Supplementary Planning Guidance (2016) on housing advises that "Outside London they are sometimes associated with concentrations of particular types of occupier e.g. students, leading to concerns about the social mix of some localities. In London, the occupier profile tends to be more broadly based and HMOs play a particularly important role in supporting labour market flexibility (especially for new entrants), and in reducing pressure on publicly provided affordable housing. However, as elsewhere in the country, their quality can give rise to concern".

7.5 **The impact on neighbour amenity**

7.5.1 SPP Policies DM D2 and DM D3 and London Plan Policy D3 require proposals to ensure that development does not adversely impact on the amenity of nearby residential properties and that people feel comfortable with their surroundings.

7.5.1 There have been no neighbour objections to the proposals. There are no physical exterior works proposed and therefore there are not considered to be any concerns in relation to overlooking, loss of light, visual intrusion etc.

7.5.2 With seven adults living on site there is the potential for greater levels of noise and activity including later at night than might be the case with a single-family dwelling. However, with 7 residents this would only be 1 more than was allowable under permitted development rights. It is therefore considered that this would not represent enough of a difference to robustly justify the proposals on the grounds of harm to the amenity of neighbours.

7.6 **Standard of accommodation**

7.6.1 London Plan policy H9 notes that the quality of some HMO properties can be a cause for concern whilst policy D3 requires that developments achieve indoor and outdoor environments that are comfortable and inviting for people to use. As noted above, certain standards of accommodation are addressed through the requirement to Licence an HMO.

7.6.2 The HMO Licensing requirements relate to the number and size of shared facilities, internal bedroom size etc. This would not override the requirement for the accommodation to be of a high and well-designed standard. The rooms all exceed the minimum space standards (some bedrooms have ensuite bathrooms), are all of a relatively regular shape which allows for a more efficient use of the space and benefit from acceptable levels of natural light (although room 3B in the roof has limited outlook). In addition, the shared living spaces would include a 21sqm kitchen/dinning area, 12sqm living space, rear conservatory and access to a good sized rear garden area.

7.6.3 Merton's HMO guidance document suggests that residents should not have to travel more than one floor to a kitchen, however this does not apply where a living room is provided on the same floor as the kitchen as would be the case with the proposed scheme.

7.6.4 The Council's HMO officer has confirmed no objection to the proposal as it would meet our requirements/standards.

7.7 **Parking and highway considerations**

7.7.1 Planning Policy T1 (Strategic approach to transport) of the London Plan 2021

states that the delivery of the Mayor's strategic target of 80 per cent of all trips in London to be made by foot, cycle or public transport by 2041. All development should make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes, and ensure that any impacts on London's transport networks and supporting infrastructure are mitigated.

- 7.7.2 Planning Policy DM T2 (Transport impacts of development) of Merton's Sites and Policies Plans seeks to ensure that development is sustainable and has minimal impact on the existing transport infrastructure and local environment.

Car Parking

- 7.7.3 The application site has a low level of accessibility to public transport with a PTAL rating of 2 although the site is located a short distance from a number of bus routes and Tooting Railway Station. The application site is also located in a Controlled Parking Zone (Zone GC) and as such is located in an area of the borough subject to high parking stress.

- 7.7.3 At a local level Policy CS20 requires developers to demonstrate that their development will not adversely affect on-street parking or traffic management. Policies DMT1-T3 seek to ensure that developments do not result in congestion, have a minimal impact on existing transport infrastructure and provide suitable levels of parking. The site is within CPZ GC but does not provide any off-street parking spaces for future residents, either for cars or motorcycles/scooters. Given the proposal would likely accommodate a higher number of adult occupiers there will likely be an increase in on-street car parking demand. Consequently, in order to protect parking facilities in the area and to reinforce the Council's drive for reduced levels of car ownership it is recommended that a s106 agreement to make the property permit free is entered into. This can be controlled via a S106 agreement.

Cycle Parking

- 7.7.4 London Plan Policy T5 requires 1 long stay space per 1 bedroom (1 person) dwelling, which means a total of 7 spaces should be provided. It is considered that the proposal would comply with this policy with 7 secure covered cycle spaces provided at the rear of the property.

7.8 **Refuse facilities**

- 7.8.1 London Plan policy D6 states Housing should be designed with adequate and easily accessible storage space that supports the separate collection of dry recyclables (for at least card, paper, mixed plastics, metals, glass) and food waste as well as residual waste.

- 7.8.1 The need for adequate levels of refuse facilities can often have a detrimental impact on the appearance of a building when the frontage becomes dominated

by large numbers of wheelie bins. In this instance there is scope to store these to the rear ready for kerbside presentation on collection day and waste services raise no objection to the proposed facilities.

8. ENVIRONMENTAL IMPACT ASSESSMENT

- 8.1 The application does not constitute Schedule 1 or Schedule 2 development. Accordingly, there are no requirements in terms of EIA submission.

9. CONCLUSION (TO CURRENT APPLICATION)

- 9.1 It is considered that the proposed 7 bedroom HMO would still offer good quality accommodation, albeit without the work area, tailored to people who require an attractive living environment but are often priced out of the flat rental market and may not be eligible for social housing. Whilst there are other HMOs in the local area, the prevailing character of the area remains single family houses and flats and an additional bedroom would not materially alter that.

- 9.2 The proposal involves no additions to the existing building and the refuse and cycle facilities to serve the seven occupiers, which are considered acceptable, can be readily housed out of sight within the back garden and therefore there would be no harm to the appearance of the host building.

- 9.3 In their conclusion to the appeal the Inspector noted:

‘Whilst I have found that the proposal would provide appropriate living conditions for future occupiers and that the waste management arrangements are appropriate, there is no mechanism in place to ensure that the proposal would not increase parking pressure on the CPZ. Therefore, the proposal on balance conflicts with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding’.

- 9.4 In view of these factors and in light of the Inspectors determination of the appeal it is considered that there would be no robust grounds upon which to refuse the proposal (applicant has now provided the required legal agreement) and therefore the application is recommended for approval subject to the following conditions and s106 agreement:

10. RECOMMENDATION

GRANT Planning Permission subject to:

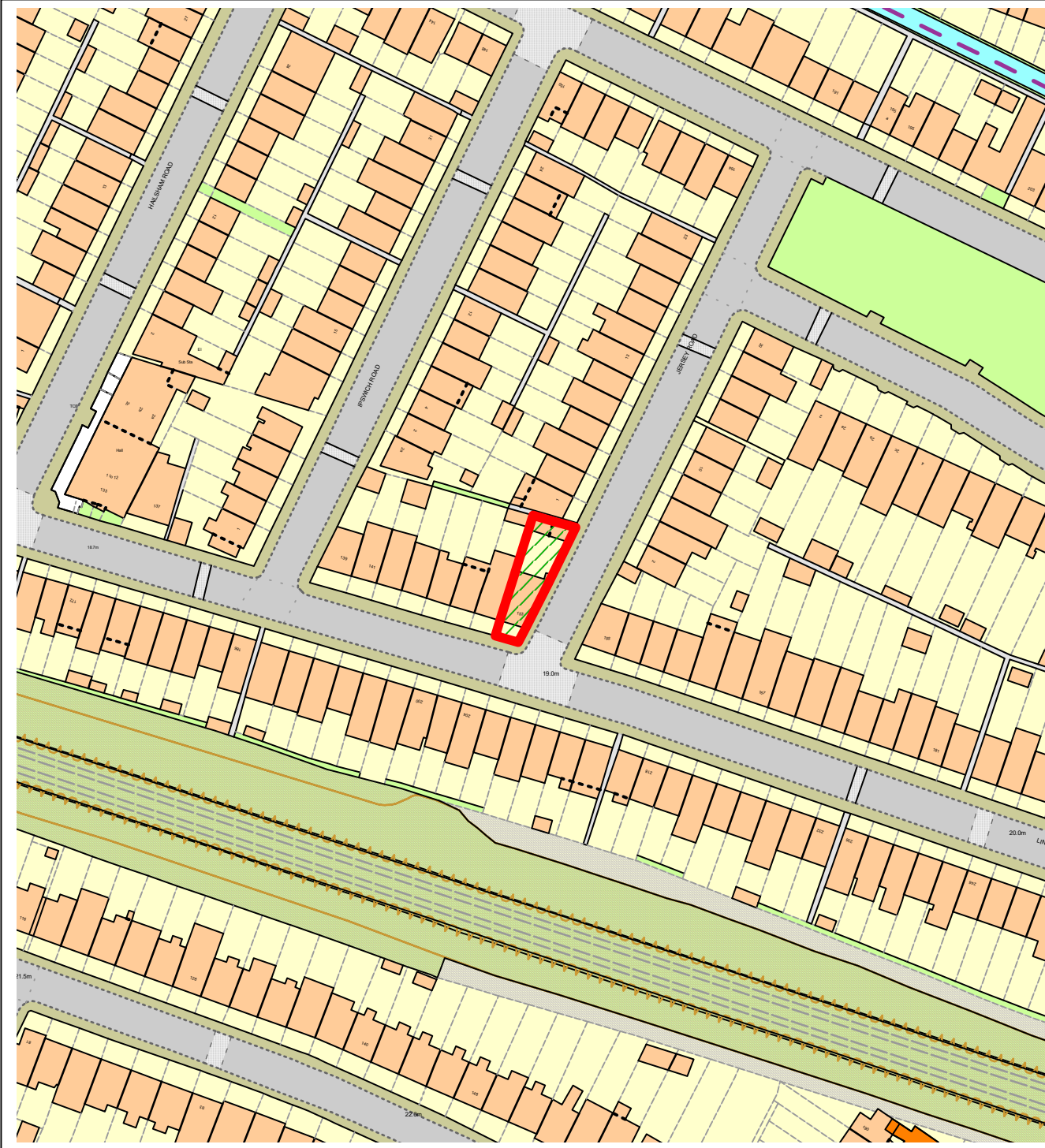
The completion of a Legal Agreement covering the following heads of terms:-

1. Permit free development
2. The developer agreeing to meet the Councils costs of preparing, drafting and monitoring the Section 106 Obligations.

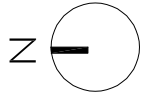
And Conditions

1. A1 Commencement of Development
2. A7 Approved Plans; Site location plan and drawings LIN-TA-XX-XX-DR-A-301002 P01 & LIN-TA-XX-XX-DR-A-520999 P11 and Document BDS Cycle Shelter - 6/8 Space Cycle Shelter & Bike Stands (Mini)
3. C07 Refuse & Recycling – The use shall not commence until the refuse facilities shown on the approved plans are available and operational.
4. D11 Construction Times – No demolition, construction or conversion work or ancillary activities such as deliveries shall take place before 8am or after 6pm Mondays - Fridays inclusive, before 8am or after 1pm on Saturdays or at any time on Sundays or Bank Holidays.
5. H7 Cycle facilities - The use shall not commence until the refuse facilities shown on the approved plans are available and operational.
6. 7 Person HMO

NORTHGATE SE GIS Print Template



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Covered cycle storage for 7no bicycles accessed from rear garden on Jersey Road

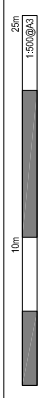
6no wheelle bins including mixed recycling accessed from rear garden on Jersey Road



REV	DATE	ISSUED BY	CHKD BY	DESCRIPTION
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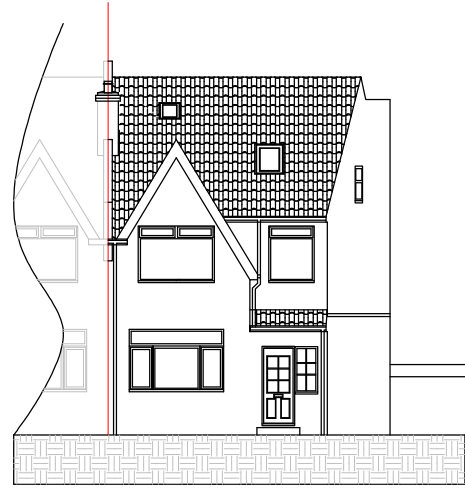
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PROJECT STAGE:
Stage 3

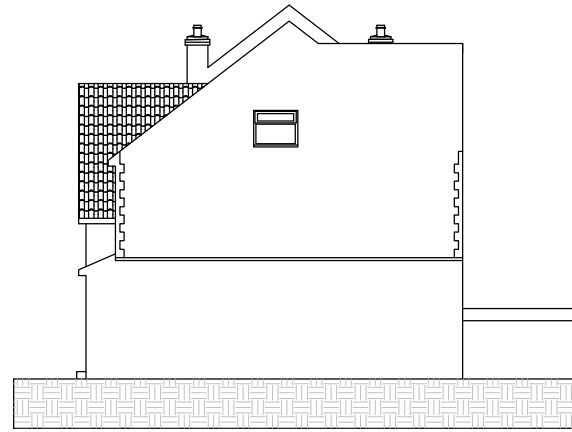
SUITABILITY CODE DESCRIPTION:
S2 Suitable for Information

DOCUMENT REFERENCE:
LIN-TA-XX-XX-DR-A-301002

REVISION:
P01



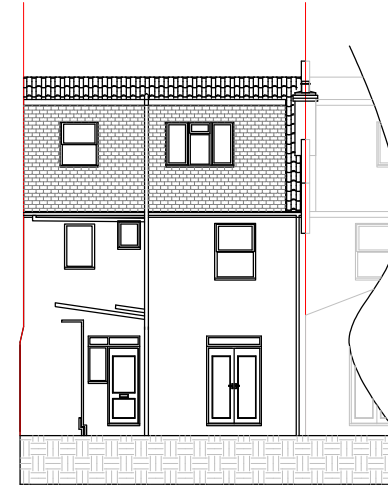
Front Elevation



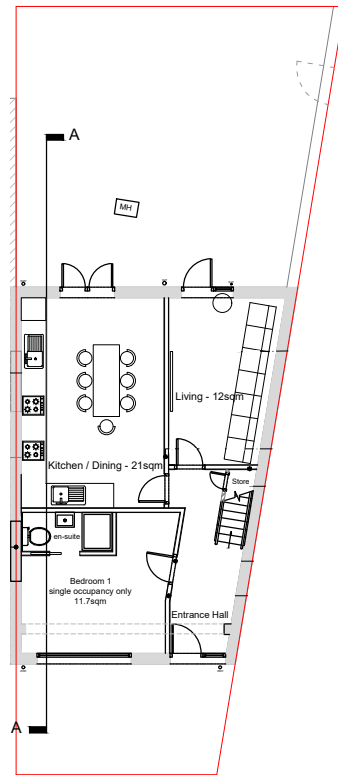
Side Elevation



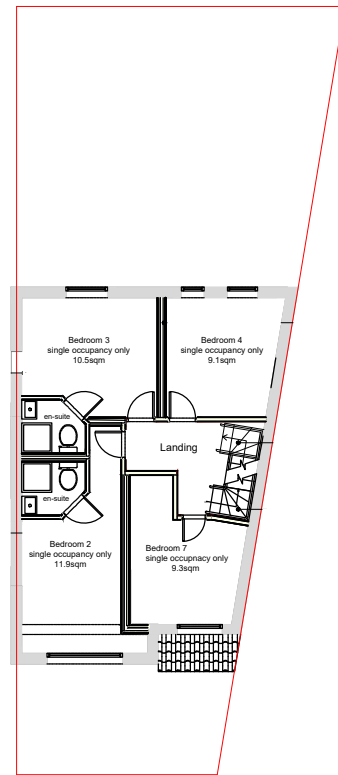
Side Elevation (from No. 151)



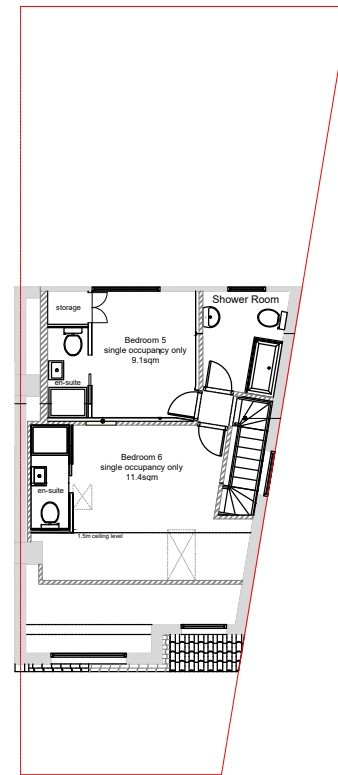
Rear Elevation



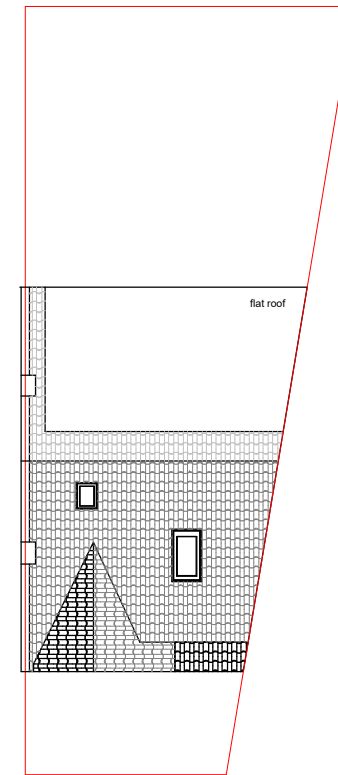
Ground Floor



First Floor



Loft

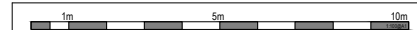


Roof

REV	DATE	ISSUED BY	CHKD BY	DESCRIPTION

NOTES

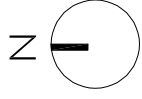
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PROJECT 153 LINKS ROAD RESIDENTIAL LONDON SW17 9EW	JOB NO. L2159
DOCUMENT NAME PROPOSED GA PLANS	DATE 09/11/23
PROJECT STAGE Stage 2	SCALE (B/A1) 1 : 100

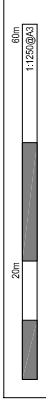
SUITABILITY CODE & DESCRIPTION S2 Suitable for Information	REVISION P11
DOCUMENT REFERENCE LIN-TA-XX-XX-DR-A-520999	



REV	DATE	ISSUED BY	CHKD BY	DESCRIPTION
P01	22.06.22			FIRST ISSUE

NOTES

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PROJECT	153 Links Road
JOB NO.	L2159
CLIENT	SWIFT SEW
DATE	06/22
DATE OF ISSUE	06/22
SCALE (A3)	1 : 1250
Site Location Plan	

PROJECT STAGE
Stage 3

SUBFABU CODE DESCRIPTION
S2 Suitable for Information

DRAWING NO.
LIN-TA-XX-XX-DR-A-301001

REVISION
P01



Appeal Decision

Site visit made on 18 July 2023

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2023

Appeal Ref: APP/T5720/W/23/3315683

153 Links Road, Tooting, Merton, London SW17 9EW

- 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 William Yardley WOMY Developments Ltd against the decision of the Council of the London Borough of Merton.
 - The application Ref 22/P1990, dated 27 June 2022, was refused by notice dated 8 December 2022.
 - The development proposed is change of use from a dwellinghouse (use class C3) to a 7 bed HMO (Sui Generis).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the planning application the subject of this appeal was refused, a planning application for a 6 resident HMO has been granted (Ref 23/P0237). This was necessary as the area is covered by an Article 4 direction removing permitted development rights for the conversion of homes (Use Class C3) to small Houses in Multiple Occupation (Use Class C4).
3. I have a signed Unilateral Undertaking (UU) before me. However due to a change of circumstances both parties accept it is not duly executed. In any event, as currently worded the UU relates to a personal undertaking and not the use of land.

Main Issues

4. The main issues are:
 - whether appropriate living conditions would be provided for future occupiers,
 - whether the waste management arrangements are appropriate, and
 - whether or not the proposal would increase pressure on the controlled parking zone (CPZ) and compromise highway safety.

Reasons

Living conditions

5. The appeal property is a previously extended two storey end terrace dwelling at the junction with Jersey Road in a predominantly residential area. It has an enclosed rear garden with a pedestrian access gate onto Jersey Road.

6. In the approved planning application for six residents the seventh bedroom was to be used as a shared study area. Bedroom 2A, the seventh bedroom, measures approximately 9.3 square metres which exceeds the minimum standards for a single occupancy room. In addition, the shared kitchen and living room meet the standards in terms of space and are of sufficient size to accommodate 7 occupiers. There is also sufficient space in the rear garden to accommodate a secure cycle store. Although the proposal would result in an increase in occupiers from 6 to 7, this would not result in an overcrowded property due to the size of the bedrooms and shared living space and would not harm the living conditions of future occupiers.
7. I conclude that the proposal would provide appropriate living conditions for future occupiers. It would therefore conform with policy H9 of the London Plan (2021) and policy DMD2 of the Merton Sites and Policies Plan (2014) which together, amongst other matters, seek to ensure that development meets local housing need and provides appropriate quality of living conditions.

Waste management arrangements

8. There is space in the rear garden for sufficient waste bins, including recycling facilities, for the proposed number of occupiers, as indicated on the submitted plans. There is also rear pedestrian access to the rear garden from Jersey Road to allow them to be made available for refuse collection. Although there are no details of proposals to make them less unsightly, due to the high fence surrounding the rear garden, they would not be visible from the street.
9. I conclude that the waste management arrangements are appropriate, and the proposal would conform to policy CS 17 of the Merton Core Strategy (2011) which, amongst other matters, seeks to ensure that new development includes integrated and well-designed waste storage facilities.

Controlled Parking Zone

10. The proposed development makes no provision for on-site parking and there is the potential for it to generate demand for additional on street parking within the Controlled Parking Zone (CPZ). The appellant has indicated they would be willing to provide a UU as the mechanism to ensure occupiers would be prevented from obtaining a parking permit. However, even if I were to accept the details of such an obligation it is not a personal undertaking and therefore highly likely to be unlawful. A duly executed obligation is not before me. I do not consider that a condition would be sufficient to ensure that the development would be permit free as it would be unlikely to meet the tests of precision or enforceability.
11. In the absence of an appropriate and lawful mechanism to secure such, the proposal would not deliver a permit free development and would therefore compromise highway safety through increased parking pressure and potential additional vehicle movements to find parking spaces. It would therefore be contrary to Policy CS20 of the Core Planning Strategy (2011) which, amongst other things, requires developer to demonstrate that their development will not adversely affect on street parking and highway safety.

Other matter

12. I note the appellant's concerns regarding the Council's handling of the case. However, this is a matter that would need to be taken up with the Council in

the first instance. In determining this appeal, I am only able to have regard to the planning merits of the case.

Conclusion

13. Whilst I have found that the proposal would provide appropriate living conditions for future occupiers and that the waste management arrangements are appropriate, there is no mechanism in place to ensure that the proposal would not increase parking pressure on the CPZ. Therefore, the proposal on balance conflicts with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding. For the reasons given above I conclude that the appeal should be dismissed.

H Senior

INSPECTOR

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