

The Planning Inspectorate

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HOUSEHOLDER PLANNING APPEAL (Online) FORM

If you need this document in large print, on audio tape, in Braille or in another language, please contact our helpline on 0117 372 6372. To help you fill in this form correctly please refer to the guidance leaflet "How to complete your householder planning appeal form".

WARNING : The appeal and essential supporting documents must reach the Inspectorate within the appeal period. If your appeal and essential supporting documents are not received in time we will not accept the appeal.

APPEAL REFERENCE: APP/C1950/D/12/2180976

A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name Dr Cheryl Colquhoun

Organisation name (if applicable)

B. AGENT DETAILS

Name

Organisation name (if applicable)

Your reference

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the LPA Welwyn Hatfield Council

LPA reference number S6/2012/0606/FP

Date of application to LPA 20 Mar 2012

Date of the LPA's decision 13 Jul 2012

D. APPEAL SITE ADDRESS

Address 50 The Runway
HATFIELD
Hertfordshire

Postcode AL10 9GL

Grid Reference: Easting 05207517

Northing 02091674

1. Is the appeal site within a Green Belt? Yes No
2. Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes No
3. Are there any health and safety issues at, or near the site which the Inspector would need to take into account when visiting the site? If so please describe them below Yes No

E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form? Yes No

Change of Use application to grant HMO status to my property

Area of floor space of proposed development (in square metres) 185

F. REASON FOR THE APPEAL

This reason for this appeal is that the LPA has (please tick which applies)

- 1 Refused planning permission
- 2 Refused permission to vary a condition(s)

G. GROUNDS OF APPEAL

** See separate documents **

CHOICE OF PROCEDURE

There are 3 possible choices:- written representations, hearings and inquiries. You should consider carefully which method suits your circumstances before selecting your preferred option by ticking the box.

1. THE WRITTEN REPRESENTATIONS PROCEDURE _____

This is normally the simplest, quickest and most straightforward way of making an appeal. The 'Householder Appeals Service' written procedure is particularly suited to small-scale developments.

2. THE HEARING PROCEDURE _____

This procedure is likely to be suited to more complicated cases which require detailed **discussion** about the merits of a proposal. At the hearing the Inspector will lead a discussion on the matters already presented in the written statements and supporting documents. Although you may indicate a preference for a hearing, the Inspectorate will consider whether your appeal is suitable for this procedure against the criteria. You must give detailed reasons below or in a separate document why you think a hearing is necessary.

Please answer the question below.

- a) Is there any further information relevant to the hearing which you need to tell us about? If so please explain below. YES NO

3. THE INQUIRY PROCEDURE _____

This is the most formal of procedure. Although you may indicate a preference for an inquiry the Inspectorate must also consider that your appeal is suitable for this procedure against the criteria. You must give detailed reasons below or on a separate sheet why you think an inquiry is necessary.

Please answer the questions below.

- | | | | |
|---|------------------|----|--|
| a) How long do you estimate the Inquiry will last?
(Note: We will take this into consideration, but please bear in mind that our estimate will also be informed by others' advice and our own assessment.) | No. of days | | |
| b) How many witnesses do you intend to call? | No. of witnesses | | |
| c) Is there any further information relevant to the inquiry which you need to tell us about? If so, please explain below. | YES | NO | |

H. (part one) SITE OWNERSHIP CERTIFICATES

We need to know who owns the appeal site. If you do not own the appeal site or if you own only part of it, we need to know the name(s) of the owner(s) or part owner(s) and be sure that you have told them that you have made an appeal.

You must tick below which of the 'certificates' applies.

If you are the sole owner of the whole appeal site, certificate A will apply:

CERTIFICATE A

A

I certify that, on the day 21 days before the date of this appeal, nobody except the appellant, was the owner of any part of the land to which the appeal relates:

OR

CERTIFICATE B

B



I certify that the appellant (or the agent) has given the requisite notice (see the *Guidance leaflet*) to every one else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below:

Owner's name

Date the notice was served
(this must be within the last 21 days)

Christopher Colquhoun

13 Jul 2012

CERTIFICATES C & D

C/D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D in the *Guidance leaflet* and attach it to the appeal form.

H. (part two) AGRICULTURAL HOLDINGS CERTIFICATES

We need to know whether the appeal site forms part of an agricultural holding. Please tick either (a) or (b).

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding:

A



OR

(b)(i) The appeal site is, or is part of an agricultural holding, and the appellant is the sole agricultural tenant: B(i)

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates as listed below:

B(ii)

Tenant's name

Date the notice was served
(this must be within the last 21 days)

Details of additional tenants

I. ESSENTIAL SUPPORTING DOCUMENTS

If we do not receive both your appeal documents by the end of the appeal period, we will not accept your appeal.

You must send the documents listed below with your appeal form. Please tick the boxes to confirm the documents are enclosed.

- 1 A copy of the original planning application sent to the LPA. ✓
- 2 A copy of the LPA's decision notice. ✓

J. OTHER APPEALS

If you have sent other appeals for this or nearby sites to us and these have not been decided, please give details and our reference numbers.

K. NOW SEND...

● 1 COPY to the LPA

Send a copy of the appeal form to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA). There is no need to send them all the documents again, send them any supporting documents not previously sent as part of the application. If you do not send them a copy of this form and documents, we may not accept your appeal.

● You may wish to keep a copy of the completed appeal form for your records

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to householderappealform@pins.gsi.gov.uk. If posting, please enclose the section of the form that lists the supporting documents and send it to PO Box 2606, Bristol, BS1 9AY.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number:

APP/C1950/D/12/2180976

Please ensure that a copy of your appeal form and any supporting documents are sent to the local planning authority.

* The Documents Listed Below Were Uploaded With The Appeal Form *

===== GROUNDS OF APPEAL =====

TITLE: Grounds of Appeal 1
DESCRIPTION: Grounds of appeal
FILENAME: Copy of V2.doc

===== ESSENTIAL SUPPORTING DOCUMENTS =====

TITLE: 01. A copy of the original planning application sent to the LPA.
DESCRIPTION: Planning Application
FILENAME: Original Planning Application Doc.pdf

TITLE: 02. A copy of the LPA's decision notice.
DESCRIPTION: Planning Decision Notice
FILENAME: Planning Decision Notice.pdf

The Context of Our Situation

We bought a house in Hatfield 2 years ago which had been operating successfully as an HMO for several years. This was a deliberate choice of home. My job as a training Doctor necessitates that I move every couple of years to different geographical locations to follow the training jobs. Hence our plan was to live in the house in Hatfield until I completed my Hertfordshire post, then re-let it as an HMO and rent elsewhere, thus allowing me to find my next training position whilst still having a foot on the property ladder. Ultimately, the plan when I have finished my training will be to return to our family home.

At end of 2011 I came to the point of needing to find a training post for the next level of my job. We could have easily rented the property at that time, but unaware that there was going to be any changes to Local Council Policies in January, we opted to stay in our home over Christmas and New Year, and then contacted an estate agent at the beginning of February to market our property. This estate agent informed us that Welwyn Hatfield Local Council have started a new policy in January 2012 stipulating that anyone who wishes to let their home to multiple occupants must apply for a change of use for their property. This was the first we had heard of such a policy.

We have then been forced to go through a protracted, confusing and frankly unfathomable planning process where the mistakes, delays and conflicting advice from the Local Council have been so numerous that it has resulted in our change of use decision taking over 4 months to be made. If the calculation on which the refusal has been cited is deemed by the Council to be completely inflexible, then this could have been calculated on day one, negating the need for a planning application at all. We have had to make a formal complaint about the way the process was conducted, which has led to an apology from the Local Council with the promise of a formal investigation into 'what went wrong' and excuses along the lines that because the change of use is a new policy, they are still ironing out a lot of problems with how they conduct their application process, and it is likely to be simplified and streamlined in the future. None of this helps with the fact that we have lost 4 months of our time, the chance to progress in my career and the potential for rental income, during this period. Ultimately a change of use has been refused on our property on grounds which I believe to be unfair, inaccurate and incorrect. We now reach the appeals board in August, having only missed the January deadline of being able to rent our house freely without stipulation by one month.

The Reasons Put Forward By Local Council For Refusal of A Change of Use, and Why I Propose These To Be Unfair and Inaccurate

The Council has put forward 3 grounds for refusal of a change of use with my property. I will address each in turn.

1) The Council have recently chosen to adopt a policy which determines that there must not be more than 20% 'of the total number of dwellings within a 50 metre radius of the application site' being HMOs.

I have been advised by a planning appeals company that there may be strong grounds to contest the legality of this policy, which is not being upheld in other parts of the country, and has not yet been legally challenged in law.

The calculation is unfair for several reasons. Firstly, obviously, larger plot homes are disadvantaged in this calculation as there will be fewer properties per square meter due to the size of the property plots. Hence, this sways the law towards favouring smaller homes, in areas with a high density of houses, giving them a better change of being offered HMO status. For example, if there are only 2 homes in a 50 metre radius, yet your neighbour is an HMO, your application would be refused as 50% of homes within the 50 metre radius are already HMOs. Conversely, if there are 20 small homes and one is an HMO, then your HMO status would be granted as this calculates to only 5% density of HMOs. This is fundamentally unfair and prejudicial against larger homes and less densely populated areas, which is ironic, because these factors make HMOs less problematic.

Secondly, in our case over half of the radius around our home is parkland. Obviously this poses no problems with HMO densities, but equally there are no homes on open parkland to count in the calculation. So ironically, the fact that we are not being overlooked by any properties, and there being open spaces around, (significant factors minimising alleged problems with HMOs), is nonetheless serving to disadvantage my chances of being able to be an HMO, whereas if I lived in a built up central estate, I would have more houses to cancel out the proportional density calculation.

Thirdly and very significantly, the calculation itself is a grey area. The planners have chosen to interpret how to do their calculation by using a protractor from the central point of my plot, and arcing a 50 metre radius from that point. However, because my plot is quite large, this means the radius circumference around my house is falling significantly short of the 50 metre proposed radius. The policy actually states 'dwellings within a 50 metre radius of the application site'. If we calculate a 50 metre radius from the edge of the application site ie. the perimeter of my property, then this 50 metre radius incorporates another 11 houses, which brings the HMO density down to significantly less than the 20% density requirement, and as such this invalidates the Council's first point. My 'application site' ends at the perimeter of my property, and as such, my calculation is more accurate than the calculation the Council has made.

Fourthly, each home the council has deemed from their database to be in multiple occupation within a 50 metre radius from my home has existed as such before January, and thus according to the Council they do not have to ask for planning permission regarding its use. However, according to the Local Council's new policies, each of these existing houses nonetheless legally must now have HMO licences to operate as an HMO. None of these properties, according to the Council, actually have those HMO licences. Hence, my request for HMO status is being refused for breaching policy guidelines, yet all HMOs in my 50 metre radius are also breaching the guidelines, and unless they obtain HMO licences, it is not possible to say whether they are legitimately entitled to be HMOs. This is infuriating as it appears I am the only person operating legally here, by applying through all the correct channels to rent my house, yet I am being refused the right to operate as an HMO because others in my vicinity are doing so illegitimately.

2) 'Likely resultant levels of activity, noise and disturbance would materially harmfully affect the living conditions of neighbouring residential occupiers'.

This is the problem with the blanket application of any law. I understand the reasoning behind why the Council want to bring this policy in – it is to reduce density of student housing in areas which are becoming problematic. However, where I live has no problems whatsoever with students or noise. We live in close proximity to the Business Park. The type of property I own is a high-end home which I would not consider letting to students. The tenants I would be looking to rent the property would be professionals on fixed work contracts from the business park. People already in HMOs around us pose no problems at all with regard to noise or activity, and neither did my household when it previously operated as an HMO. There have been no complaints whatsoever regarding these concerns in my vicinity. Hence it is not credible that there would be noise problems. In fact, the only noise on our street ever is my 2 young children screeching and playing on their bicycles and scooters. Our moving out and renting to professionals would cause a pointed reduction in noise levels!

Our home is a fully detached property in not too close a proximity to next door neighbours. Furthermore, and very significantly, our next door neighbours on one side are not in residence for 11 months of the year as their primary residence is in Qatar. Hence their property sits empty nearly the whole year round. As such, we have very little opportunity to cause them any noise disturbance at all. Furthermore, a 6 bedroom property sitting empty next door to us on the street for 11 months of the year more than makes up for any perceived net increase in footfall on the road due to us renting out our property.

3) Unacceptable intensification in the use of the dwelling resulting in a cramped layout that would not provide satisfactory living conditions'.

This point is frankly totally untrue, and having contacted the planners, they could not give any reasoning for why they have written this. Our property is 2,000 square feet in size. It has 5 bedrooms, 3 of which are spacious double bedrooms and 2 of which are comfortable single bedrooms, which nonetheless are sufficient in dimension to house a double bed if so required. We have 3 separate full bathrooms in the property with an additional downstairs toilet. The downstairs space is extensive with large separate living room, dining room and kitchen. There is a large garden and a double length garage, with parking for 2 cars, plus a further 3 cars on the drive and on parking spaces directly in front of the property. The property was clearly built for a minimum of 5 people and would comfortably house far more people than that. When the property previously operated as an HMO it housed 7 people comfortably, for years, without a problem. We were proposing renting to only a minimum of inhabitants - one person per bedroom, and as such they would in no way be living in cramped conditions.

I might add that I noticed a gentleman on my property during the planning application period. On enquiry as to who he was, he identified himself as from the planning department. I asked him if he would like to come in and inspect the property, but he declined. Instead the planners then opted to make a value judgment about my property

and its suitability for 5 inhabitants, which has no basis in reality, after declining an inspection of the property. This relates to a central problem I have with the entire planning application. At no point were the planners ever prepared to start any dialogue between ourselves and them regarding the application. Inaccuracies regarding their entire position on our planning application could easily have been avoided by simply discussing with us their concerns, and any potential obstacles in the way of granting HMO status. Instead they have deemed that we must now waste several more months going down an appeals route to counter decisions which they cannot even justify on questioning, after having put them down on paper.

I would also then like to know why HMO status has not been refused for the other properties in proximity to mine, which are identical in size to ours, with 5+ tenants, if the Council feels that tenants there are living in conditions which are unduly cramped.

The Situation For Us if Planning Permission for A Change of Use is Not Granted

Only on having secured several estate agent valuations after the refusal of change of use has the full gravity of the decision to refuse us HMO status, been understood by us. We are in a situation where, due to no fault of our own, the Local Council has changed the policy guidelines on a property we own, without informing us in advance. The Council shocking seem to be suggesting that the onus was somehow on us to have found out that there would be a change in policy, stating that they had advertised the plan in a local newspaper (which I do not read) and also that they had 'done a leaflet drop'. I have never seen any leaflets through my door pertaining to this, and that fact is obvious due to the predicament we find ourselves in, having missed the right to freely rent my home as I saw fit, by a mere month. If the Council were making plans that would significantly affect my financial future, I would at a minimum have expected a letter through the door, addressed 'To the Property Owner' outlining their intended policy changes. This I would have received, and thus been made aware of Policy changes. Sadly their marketing strategy has fallen woefully short of reaching their target market. I am not alone in being unaware of the changes. None of my friends in Hatfield have been aware of the changes prior to hearing of our predicament, and several estate agents are attesting to the fact that it has being 'brought in by stealth' with the general public largely unaware.

I have also been reliably informed by several estate agents that the policy is totally unenforceable, and that major landlords in the area are completely ignoring it. I was also outlined several 'ways of getting around it,' a route which I have not gone down, as I am a law abiding citizen. Tellingly, I was then informed 'It's only mugs like you, getting the Council involved, who get burned'. Apt words indeed I feel.

Ultimately we are now faced with an impossible scenario. This Council Policy is so restrictive in scope that it leaves us with only one possibility – to rent our house to a family. Several estate agents have told us categorically that we cannot make sufficient rent, renting to a family, to cover our mortgage. Furthermore, there is very little demand for families wanting to rent in the area, the main rental potential coming from professionals in the business park. Our house is too large for a regular family to want to rent as the rent we would have to ask, whilst easily covered by multiple tenants,