

Appeal Decision

Site visit made on 12 September 2016

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 September 2016

Appeal Ref: APP/U5930/W/16/3153067

486 Lea Bridge Road, London, E10 7DU

- 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 J Feld against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 153555, dated 25 November 2015, was refused by notice dated 17 February 2016.
 - The development proposed is conversion of the property into x2no. 3bed flats.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have referred to policy C13 of the CS. As there is no policy C13 in the submitted plan documents, I have disregarded this as a drafting error.

Main Issues

3. The main issues for the appeal are:
 - Whether the proposal would lead to an unacceptable loss of a large family dwelling;
 - The effect of the proposal on the living conditions of adjoining residential occupiers.

Reasons

Policy Background

4. The appellant advises that a deliverable 5 year supply of housing is not available in the Borough. The Council has not commented on whether or not it has a housing shortfall. As the Council has not addressed this matter in its representations I must conclude that it has not demonstrated that it has a 5 year supply of deliverable housing sites. As such paragraph 49 of the *National Planning Policy Framework* (the Framework) is engaged and relevant policies for the supply of housing must be considered out-of-date. Paragraph 14 of the Framework advises that where the development plan is out-of-date permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
-

5. The plan for the Borough is the *Waltham Forest Local Plan Core Strategy* (CS), which was adopted in March 2012 and the *Development Management Policies Local Plan* (LP), which was adopted in October 2013. The Council have referred to policy CS2 of the CS which seeks to ensure a continuous supply of land and homes to meet a range of housing needs in the borough. It also seeks to create an economically mixed and balanced community by both seeking a range of home sizes and tenures in new development and resisting the loss of any existing larger homes. Policy DM6 of the LP seeks to protect the stock of family sized homes in the borough by resisting conversions in certain situations. This includes within identified wards in the Borough¹ which already have a high number of dwelling conversions, which include the appeal site. It also seeks to ensure that the cumulative impact of conversions does not have an adverse effect with regard to parking, noise, the provision of local services, overcrowding and effect on the street scene.
6. Although these policies are out-of-date as a result of housing land supply issues, and in part predate the guidance in *the National Planning Policy Framework* (the Framework), they are nonetheless consistent with the aim of delivering a wide choice of high quality homes and creating inclusive and mixed communities as expressed in the Framework and therefore still carry weight in the planning balance.

Loss of a Large Family Dwelling

7. The appeal property is a very large single family dwelling house. It has 7 bedrooms over 2 floors and a large rear garden. It is located in a predominantly residential area close to shops and other local services. The appeal seeks planning permission to subdivide the property into 2 self – contained flats, each with 3 bedrooms. The parties agree that the proposed flats would meet the internal space requirements in the London Plan.
8. The appellant argues that as both flats would have 3 bedrooms they would both constitute larger dwellings, and thereby not be in conflict with policy DM6. I do not consider this to be the case. The policy seeks to protect existing larger dwellings of 3 bedrooms or more, which would include a range of larger dwelling sizes. The policy is explicit that even when the proposed flats would comply with the internal space standards of the London Plan, in identified wards including Lea Bridge, where an over concentration of conversions has already been identified, in the adopted Local Plan, further conversions will be resisted in order to avoid cumulative harm to the character of the area.
9. The appellant has provided evidence that there is greatest demand in the Borough for 3 bedroomed properties, with less demand for dwellings of 4+ bedrooms. However, whilst I accept that the existing dwelling is very large by local standards, with 7 bedrooms, I have no convincing evidence that there is no market demand for a dwelling of this size. The evidence submitted also shows demand for larger dwellings. The appellant has provided a rental agreement for the latest tenancy which shows the property is being rented for a year at what I am told is below market rates. However, this on its own is not indicative of a lack of demand for larger property in the area as I have no evidence of sustained vacancy, or comparative rental values in the area. Furthermore, I noted during my site visit that the property did not appear to be underoccupied as all of the rooms appeared to be in use.

¹ Restricted Conversion Zones para 7.1 of the LP

10. This leads me to the view that the proposal would fail to comply with policies aimed at ensuring a mix of housing in the Borough and would add to an identified over-concentration of conversions in the area, thereby contributing to harm to its character. It would thereby conflict with policy CS2 of the CS and policy DM6 of the LP, which seek to resist such development and with the Framework, which directs local planning authorities to create sustainable, inclusive and mixed communities and to identify the size, type tenure and range of housing that is required in particular locations, reflecting local demand.

Living Conditions

11. The Council consider that the more intensive use of the property would give rise to noise and disturbance which would impact upon adjoining occupiers. Taking into account the size of the property, its subdivision into 2 units would be unlikely to give rise to a material increase in comings and goings at the property. In considering the effect on neighbours the Council have referred to 3 flats rather than 2, and this diminishes the weight I can attribute to their concerns.
12. The adjoining occupier at No 288 has raised concerns in relation to the position of kitchens at first and ground floor level, and its effect in relation to noise heard in his rear bedroom. I acknowledge that the juxtaposition of bedroom and living accommodation can give rise to noise and disturbance which can reduce the quality of living conditions with properties converted into flats. In this case the lounge/kitchen window at first floor would sit alongside the room identified by the neighbour as a rear bedroom in the adjoining property, which has the potential to lead to disturbance. However, this could be mitigated by a rearrangement of the internal layout, and with sound proofing measures and control over extraction systems, which are matters which could be achieved by means of an appropriate condition.
13. On the second matter I therefore conclude that the proposal would not harm the living conditions of adjoining residential occupiers. The Council have referred to policy CS13 of the CS of DM32 of the LP. Policy DM32 does not refer to noise or disturbance. Policy CS13 seeks to promote health and well-being by ensuring new development conforms with appropriate environmental standards including noise and the proposal would not thereby conflict with it. It would also conform with guidance in the Framework which seeks a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

14. The proposal would provide an additional dwelling in a sustainable location and having regard to the impetus for growth implicit in the Framework, this is a matter to which I attribute substantial weight. In coming to a view I also take into account the other decisions put to me by the appellant but find that none directly reflect the circumstances of this case. I therefore attribute limited weight to them. The proposal would have a negligible impact in relation to sustaining local services and so I attribute no weight to this matter.

Conclusion

15. The proposal would not have an adverse effect on the living conditions of adjoining occupiers, which is a neutral factor and does not weigh in favour of

the proposal. I take into account the small contribution the proposal would make to housing supply in the district. However, this would be insufficient to outweigh the harm arising from the loss of a large family dwelling, both in terms of its effect on housing mix and the cumulative effect on the character of the area. This would amount to substantial and greater harm, which would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework as a whole. As such, the appeal proposal would not benefit from the presumption in favour of sustainable development as set out in Paragraph 14 of the Framework.

16. Therefore, for the reasons set out above, and having regard to all other matters raised, the appeal must be dismissed.

Anne Jordan

INSPECTOR