

Appeal Decision

Site visit made on 7 December 2016

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 30 December 2016

Appeal Ref: APP/Q5300/W/16/3157546

77 Turkey Street, Enfield EN1 4PJ

- 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 Ms Emine Osman against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/02014/FUL, dated 6 May 2016, was refused by notice dated 6 July 2016.
 - The development proposed is conversion of residential dwelling (C3 use class) to 6 x HMO units (C4 use class).
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Decision

1. This appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the loss of a family sized single dwelling house on provision of housing; and
 - the effect on the living conditions of the occupants of adjoining properties with particular reference to noise.

Reasons

3. The appeal property is a two storey end of terraced house which has been extended from three to four bedrooms it is located in close proximity to Turkey Street station. The proposal would result in the conversion of the property from a single family dwelling house to a 6 bed HMO.

Provision of housing

4. Policy CP4 of the Enfield Plan Core Strategy 2010-2025 (2010) (the Core Strategy) states that the Council will use its planning powers to prevent the loss of homes and policy CP5 advocates that the Council will seek a range of housing sizes to meet the boroughs housing need as defined by the Enfield Housing Market Assessment (final report)(2010) (the SHMA). The SHMA has identified that whilst there is a need for all types of housing within the borough there is a particular shortfall in the provision of properties with three or more bedrooms. Whilst both the SHMA and the Core Strategy predate the National Planning Policy Framework (the Framework) these policies are consistent with
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the Framework which advocates that Councils should identify the size, type, tenure and range of housing that is required in particular locations¹.

5. Therefore, whilst the proposal would retain the residential use of the building it would result in the loss of a large single family dwelling unit for which the Council have identified that there is a need and as a consequence would be contrary to the policies identified above.

Effect on living conditions

6. The Council advocate that due to the size of the proposed rooms the property if converted would be capable of accommodating more than the six persons proposed and as such would lead to levels of noise and disturbance that would adversely affect the living conditions of the occupants of adjoining properties. In their Officers report the Council have come to this conclusion based on the room space requirements of their HMO licensing regime and the principles of the Mayor of London's Housing Supplementary Planning Guidance (2016) (the SPG) which indicate that a number of the rooms would be capable of being a double bedroom.
7. Whilst the number of people able to reside at the premises could be controlled through the use of a condition the Council advocate that this would be difficult to enforce due to the transitory nature of tenants of HMOs and as a consequence they consider that it would fail the test for conditions as set out in the Framework².
8. Whilst I have not been provided with either a copy of the SPG or the HMO licensing regime, and I note that the Council has not referred to them in their appeal statement, the standards within these documents are normally a minimum and not a maximum. The Council's Housing Enforcement Officer and Environmental Health Advisor are both satisfied with the proposed occupation levels and do not have concerns given those occupation levels regarding noise. Furthermore, it is clear from the information submitted with the application and the evidence submitted with the appeal that the appellant intends to use the premises for a six person HMO.
9. Whilst I agree that a condition limiting the number of occupants may be difficult to enforce I do not consider that it would not be unenforceable and subject to the use of the correct wording would meet the test for conditions.
10. As a result given that I am satisfied that the number of people who could reside at the property could be limited to six I do not consider that this would give rise to levels of noise and disturbance above that which would be generated by the unit currently. As a consequence the proposal would therefore not adversely affect the living conditions of the occupants of neighbouring properties or be out of character with the surrounding predominantly residential area.
11. The proposal would therefore be in accordance with policies CP30 and CP32 of the Core Strategy which require development to have regard to their context and to minimise noise pollution; policies DMD 5, DMD 8 and DMD 37 of the DMD which seek to protect the amenity of existing residents and to ensure that

¹ Paragraph 50

² Paragraph 206

development is appropriate for its context and the Framework which among other things seeks to secure a good standard of amenity.

12. I do not consider policy 3.5 and accompanying table 3.3 of the London Plan and the Nationally Described Space Standards mentioned in the Council's reason for refusal relevant to the determination of this appeal as these standards do not relate to HMOs.

Other Matters

13. I note that the appellant advocates that the application is necessary because houses of this size are difficult to rent. However, the ability to sell or let a property is not a material consideration.
14. The appellant has submitted an alternative plan (A103-A) which would reduce the proposal to a 5 bed HMO. However, I consider that this would result in a materially different scheme to the appeal proposal and as a result I have considered the appeal on the basis of the plans that were refused planning permission.

Conclusion

15. For the above reasons, and having regard to all other matters raised, this appeal should be dismissed.

Jo Dowling

INSPECTOR