
Appeal Decision

Site visit made on 20 June 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 20th July 2017

Appeal Ref: APP/Q5300/W/17/3167750

197 Whittington Road, Southgate, London N22 8YP

- 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 Mrs Sofina Aghios against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/04541/FUL, dated 5 October 2016, was refused by notice dated 16 December 2016.
 - The development proposed is the conversion of single 5/6 bedroom dwelling into HMO for up to 6 x persons (6 x bedsits).
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of single 5/6 bedroom dwelling into HMO for up to 6 x persons (6 x bedsits) at 197 Whittington Road, Southgate, London N22 8YP in accordance with the terms of the application, Ref 16/04541/FUL, dated 5 October 2016, subject to the conditions on the attached schedule.

Preliminary Matters

2. There is a discrepancy regarding the floor plans that were submitted to the local planning authority for consideration and on which they based their decision, and those contained at Appendix L of the appellant's written statement. The floor plans submitted to the local planning authority shows the following accommodation over 3 floors:
 - Ground floor: Kitchen/diner, lean-to, bedroom 05 and 06.
 - First floor: Bedroom 01, 02 and 03.
 - Second floor: Living room and bedroom 05.
3. Appendix L of the appellant's statement shows the following accommodation over 3 floors:
 - Ground floor: Kitchen/diner, lean-to, reception room, bedsit 1.
 - First floor: Bedsit 2, 3 and 4.
 - Second floor: Bedsit 5 and 6
4. The discrepancies arise from bedroom 05 on the ground floor which has changed to a reception room and on the second floor where the living room has changed to bedsit 6. Notwithstanding these changes, the building still contains 6 bedrooms over 3 floors with a reception room, kitchen/diner and lean-to as communal areas, albeit these are all now provided on the ground floor.

5. The Council confirm in their statement of case that they have had regard to the appellant's statement in compiling their response. Therefore, the Council would have had the opportunity to comment on the plans at Appendix L. Given the very minor changes to the room layout, I consider that no party would be prejudiced by me considering the appeal on this basis.

Main Issues

6. The main issues are the effect of the development on:
- The living conditions of adjoining occupiers with particular regard to noise and disturbance.
 - The living conditions of future occupiers of the House in Multiple Occupation (HMO) with particular regard to the quality of accommodation.
 - The character and appearance of the area.
 - Parking and refuse storage.

Reasons

Living Conditions

7. The appeal site is an end of terrace property located within a predominantly residential area. The property is constructed over 2 storeys and benefits from a rear dormer that has allowed the roof space to be converted into additional living space. As a result, accommodation is provided over 3 floors and provides 6 bedrooms with additional communal rooms and a kitchen/diner.
8. The appellant is an established landlord and from my visit, the building has been developed to a very high standard. All the bedrooms were decorated and communal areas were at the same standard as the rest of the building. One of the core planning principles of the National Planning Policy Framework (the Framework) is that development is of a high standard and provides a good amenity for all existing and future occupiers.
9. The Council's concerns stem from the size of the bedrooms which, in their opinion, could accommodate at least 10 persons within the building. Consequently, this could give rise to significant levels of noise and disturbance to adjoining and future occupiers of the HMO.
10. While I note the Council consider this to be a three-bedroom dwelling with a recent dormer addition to create the HMO, in its current form it could provide accommodation for a large family, with up to five bedrooms. The application before me is for an HMO for up to 6 persons. The appellant has made it clear within her written statement that she has no desire to exceed that number and that all bedrooms would be single occupancy; this can be conditioned. The use of the building as an HMO would undoubtedly lead to some increase of activity at the site over its former use. However, this would not necessarily be any greater than the use of the building as a single dwelling for a large family. Moreover, I note the absence of any objection or concerns raised by adjoining properties.
11. On the first main issue, I conclude that the proposed development would not impact on the living conditions of adjoining occupiers through noise and disturbance. The proposed conversion would be in compliance with Policy 3.5

of the London Plan 2015, Policies DMD5, DMD6, DMD37 and DMD68 of the Enfield Council Development Management Document 2014 (DMD) in this regard, and Policy CP30 of the Enfield Plan Core Strategy 2010-2025 (the Core Strategy), which seek, amongst other things, to ensure that developments do not lead to unacceptable levels of noise and disturbance to adjoining occupiers.

Quality of Accommodation

12. There is common ground that the bedrooms within the building meet the minimum space standards for new development. The concern from the Council is that bedroom 5 on the ground floor would not receive adequate light and the 15.6 sq. m kitchen/diner would be significantly below the minimum 31 sq. m combined floor area for a 6 person dwelling.
13. As stated in the preliminary matters, bedroom 5 on the ground floor has been changed to become a reception room. The lean-to structure is completely covered and adds to the communal area provided for the occupants. Consequently, the building now provides in excess of the 31 sq. m combined floor area for a 6 person dwelling.
14. I note from the Council that their objection to the level of light into the kitchen/diner and the absence of outdoor amenity space has not been commented on, other than the garden area can be accessed via a side door in the kitchen/bathroom. The site provides an adequate garden area to the rear of the detached garage and the kitchen is serviced by two windows on each side of the room which provide adequate daylight.
15. On the second main issue, I conclude that the development would provide an adequate level of accommodation for future occupiers of the building. The development is therefore in compliance with Policy 3.5 of the London Plan, Policy CP4 of the Core Strategy and Policies DMD5, DMD8, DMD9, DMD15 and DMD37 of the DMD in this regard, which seek, amongst other things, to ensure that developments provide a high quality and standard of accommodation.

Character and Appearance

16. Policy DMD5 of the DMD sets out a number of criteria which applications for a change of use to a flat or a HMO must meet. One such criterion specifies that proposals should not harm the residential character of the area or result in an excessive number or clustering of conversions. The number of conversions must not exceed 20% of properties along any road and 1 out of a consecutive row of 5 units may be converted.
17. In October 2013, the Council introduced an Article 4 Direction withdrawing permitted development rights for the change of use of a dwelling (C3) to an HMO (C4). Such conversions now require planning permission. Notwithstanding the Direction, it does not inevitably fall that all applications for a change of use to an HMO will be resisted. Each application must be considered on its own merits.
18. It is clear that Policy DMD5 of the DMD refers to the conversion of existing units into both self-contained flats and HMO's. The Council's records show that No. 193 and 203 have been converted into flats and the proposed HMO would fall in the 1 out of a consecutive row of 5 units, contrary to Policy DMD5 of the DMD. The appellant points out that a large number of flats have been allowed in the immediate vicinity whereby the 1 in row of 5 criteria has been broken.

The vast majority of these are flats above retail units and the Council confirm that others were granted in the 1980s and 1990s, some years before the adoption of the DMD.

19. The Council have not identified actual harm to the character of the area that would occur as a result of this, other than it exceeds the 1 in a row of 5 criteria. I am mindful that paragraph 50 of the Framework recognises that in order to deliver a wide choice of high quality homes, local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.
20. The Council are concerned that if allowed, the proposal would exacerbate unacceptably an existing trend of conversions on Whittington Road. However, less than 20% of Whittington Road are recorded as conversions. I find that it is only the clustering of conversions criterion of Policy DMD5 of the DMD that the proposal fails to comply with, and in this particular case I consider that the existing character would be able to accommodate this further conversion.
21. Other criteria are set out in policy, and I have found that the development would provide a high quality form of accommodation which meets internal space standards. I have also found that the development would not result in material harm to the living conditions of future and adjoining occupiers. The Council confirm that their records would suggest that less than 20% of the properties along Whittington Road have been converted into a flat or HMO. The development does not propose the conversion of a family unit into a self-contained flat. Matters relating to parking and bin storage are considered below.
22. Although the proposal is not strictly in compliance with the numerical requirement of Policy DMD5 of the DMD, I have not found harm, in this case, to the character of the area.
23. On the third main issue, I find the development would not have a detrimental impact on the residential character and appearance of the area. The development is therefore in compliance with Policy CP30 of the Core Strategy, Policy DMD6 of the DMD which seek, amongst other things, to ensure that development proposals do not harm the character and appearance of an area.

Parking, Cycle and Refuse Storage

24. Appendix M of the appellant's statement sets out where cycle and refuse bin storage can be provided. The cycle storage would be adjacent to the garage/shed building within the rear garden. There is a lockable gate of some 2 m between the rear of the house and the garden so cycles would not be visible to passers-by as to represent a potential theft issue. The proposal would therefore be in compliance with Policy 6.9 of the London Plan which seeks to ensure that developments provide secure, integrated and accessible cycle parking facilities.
25. The Council argue that refuse bins would be stored in the forecourt of the house but Appendix M indicates that refuse bins would be stored to the side. However, there is ample room to the side or within garden to site refuse bins, which could be presented on the footpath on collection days and then returned, thereby reducing their impact on the street scene.

26. With regard to parking, the site provides one space to the front of the dwelling. During my site visit I was also able to park within the site while a car was parked at the front, meaning 2 spaces are available. I accept that the demand for parking is high in the area and during my daytime visit to the site, parking was at a premium. I note that Policy 6.13 of the London Plan refers to "maximum standards" for parking provision and not an absolute figure for each unit. Moreover, the explanatory text to Policy 6.13 also states that, "Given the need to avoid over-provision, car parking should reduce as public transport accessibility increases." The site is very close to public transport links with Bounds Green underground station and Bowes Park train station within a 10 minute walk of the site. The site is also close to amenities and facilities such as shops and restaurants.
27. On the fourth main issue I conclude that the site would provide adequate provision for cycle and refuse storage and for the parking of vehicles. The development would therefore comply with Policies 6.9 and 6.13 of the London Plan and Policy DMD45 of the DMD, which seek, amongst other things, to ensure that sites are provided with adequate cycle and parking provision.

Conditions

28. The Council has suggested a number of conditions if I am minded to allow the appeal. I have reworded them where necessary in the interests of concision and enforceability. To ensure the maximum occupancy of the building, a condition is required specifying the number of people that can live at the site. To protect the living conditions of adjoining and future occupiers it is also necessary to ensure that no independent cooking/laundry facilities are provided within the bedrooms. To ensure a satisfactory form of development details of cycle and refuse bin storage should also be provided. The approved plans should be specified to provide certainty.
29. There is no requirement to condition the size or mix of the bedrooms as this would only duplicate the approved plans condition.

Conclusion

30. Notwithstanding my findings of non-compliance with the numerical requirements of Policy DMD5, I have found that the proposal would not lead to harm to the character and appearance of the area through clustering in this case, and would, furthermore, comply with the development plan as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Graham Wyatt

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. Appendix L (pages 34 and 35) of the Appellant's appeal Statement dated 17th January 2017.
- 3) The development shall not be occupied until details of refuse storage facilities including facilities for the recycling of waste to be provided within the development, have been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided in accordance with the approved details before the development is occupied and retained thereafter.
- 4) The development shall not be occupied until details of cycle storage facilities to be provided within the development, have been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided in accordance with the approved details before the development is occupied and retained thereafter
- 5) The use of the property as a House in Multiple Occupation hereby approved shall be occupied by a maximum of 6 people at any one time.
- 6) No independent cooking or laundry facilities shall be installed in any of the respective bedrooms and the communal reception room, kitchen diner and lean-to shall be retained in perpetuity.