



Appeal Decision

Site visit made on 25 July 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 4th August 2017

Appeal Ref: APP/Q5300/W/17/3175573

140 Addison Road, Enfield, EN3 5LD

- 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 Makwana against the decision of London Borough of Enfield.
 - The application Ref 16/05454/FUL, dated 25 November 2016, was refused by notice dated 2 March 2017.
 - The development proposed is the change of use from a residential dwelling (Class C3) to an HMO for up to 5 individual tenants (Class C4) and erection of a bike store to front.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a residential dwelling (Class C3) to an HMO for up to 5 individual tenants (Class C4) and erection of a bike store to front at 140 Addison Road, Enfield, EN3 5LD in accordance with the terms of the application, Ref 16/05454/FUL, dated 25 November 2016, subject to the attached schedule of conditions.

Main Issue

2. The Council have raised concern that the development would be occupied by a greater number of tenants than as set out in the application. The Council also contend that while they have an in-principle objection to a C4 use, the net increase in residents that could occupy the dwelling would be detrimental to the character of Addison Road and would give rise to noise and disturbance.
3. On this basis, the main issues relate to a) whether occupation levels can reasonably be conditioned and effect of the proposed development upon (b) the living conditions of neighbouring occupants and (c) the character and appearance of the area.

Reasons

Number of Occupants

4. The appeal proposals before me are for 5 tenants under a C4 use. As stated above, the Council have raised concerns that due to the size of the proposed bedrooms, the property is likely to be occupied by 7 tenants, rather than 5, which would be a sui generis use. They also contend that due to the transitory nature of tenants of a house in multiple occupation (HMO) a condition to limit the numbers of occupants would be difficult to properly enforce.
5. Criterion (a) of Policy DMD5 of the Enfield Development Management Document 2014 (DMD) requires that HMOs provide a high quality form of

accommodation which meets internal floor space standards in the London Plan 2016 (LP). There is no dispute that the rooms would exceed these requirements under LP Policy 3.5 and in this regard, I find that there would be no policy conflict. I also note that these policies do not stipulate a maximum room size.

6. Paragraph 203 of the National Planning Policy Framework states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 states that conditions should only be imposed where they are necessary, relevant to planning and to the development being permitted, enforceable, precise and reasonable in all other respects. Planning Practice Guidance¹ (PPG) notes that unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition or those concerned with matters over which the applicant has no control.
7. While I accept that bedrooms 1 and 3 could be comfortably occupied as double rooms, the appellant is clear that the application is for 5 tenants and not 7. In light of the Framework and the advice contained within the PPG, I consider that a condition restricting the number of occupants to 5 would be entirely enforceable and that the Council would be able to detect a contravention and remedy such any breach, should this occur. Moreover, I am also mindful that HMOs are licensed under separate legislation, which would also include limiting the number of tenants.
8. On this matter, I conclude that the Council's concerns are unfounded as the development would constitute a C4 use and that numbers of occupants can be restricted by a condition which would meet the tests as set out in paragraph 206 of the Framework. The development would also accord with DMD Policy DMD5 (a) and LP Policy 3.5.

Living Conditions

9. The appeal property is a mid-terrace dwelling located in a residential area. DMD Policy DM5 also requires that conversions should not lead to an unacceptable level of noise and disturbance for occupiers and adjoining properties. While the basis of the Council's concerns in this regard relate to the over-occupation of the property, as discussed above, I am also mindful that there was local objection on this basis.
10. Based on the number of future users within the appeal property, I am not persuaded that the intensity of the proposed use as a HMO would increase noise and disturbance through additional and separate 'coming and goings' at different times of day through the operation as a separate household. While I acknowledge that patterns of behaviour of occupants of HMO's are generally different from families, as this would be at a relatively small scale I do not consider that this would cause material harm upon future occupants, or upon neighbours. I am also mindful that the Council's Environmental Health Officer has raised no objection in this regard.
11. The appeal property has a front garden area which has been paved and used for off-street parking and bin storage. The submitted plans also depict a

¹ Paragraph: 004 Reference ID: 21a-004-20140306

covered storage unit for up to 4 bicycles in this area. Concern is raised that this could give rise to an increase in general traffic and a loss of privacy. However, the store would be for future occupants of the property and is a requirement of the London Plan in order to encourage sustainable modes of transport. I am satisfied that the provision of 4 spaces would not cause any disturbance to neighbours and as the storage would be secure, would not be likely to pose any significant security issues.

12. On this issue I therefore find no conflict with DMD Policy 5 and I consider that there would be no harm to the living conditions of neighbouring occupants.

Character and Appearance

13. Again, while the basis of the Council's concerns regarding character and appearance relate to the occupancy of the property by 7 tenants, other representations on this matter were received. The area is residential in character with a number of terraced dwellings, a small number of which have been converted into flatted accommodation. The general environment along Addison Road is well maintained and based on the submitted evidence, I find that the development would not result in harm to the overall housing mix and balance of the area.
14. The property has recently been renovated and bin storage is provided to the front of the dwelling, in common with other dwellings along Addison Road. No external works would be made to the appeal property therefore preserving its appearance in the street scene.
15. I am therefore satisfied that the development would preserve the character and appearance of the area. The development would also accord with DMD Policy DM5 which requires that HMO's do not harm the residential character of the area or result in an excessive number or clustering of conversions. The development also accords with Policy CP5 of the Enfield Core Strategy 2010 (CS) and LP Policy 3.5, as both policies seek to secure appropriate housing tenure and mix. The proposals would accord with CS Policy CP4 and CP30 which seek to maintain the quality of the built environment as well as LP Policies 7.4 and 7.6 in respect of protecting local character and good architecture.

Other Matters

16. The issue of impact on property value has been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

17. I have had regard to the various planning conditions that have been suggested by the Council. In addition to the standard condition which limits the lifespan of the planning permission, I have specified the approved plans as this provides certainty. Conditions relating to maximum occupancy and the provision of independent facilities are necessary to protect the character of the area, as well as living conditions of future and neighbouring occupants. As discussed above, this would be enforceable in accordance with paragraph 206 of the Framework. However I have amended the wording provided as the conversion to self-contained units would require separate consent.

18. The approved plans illustrate the location of both cycle and refuse storage facilities, and therefore I do not consider that conditions in respect of providing details of these items are necessary. As an alternative, I have imposed conditions relating to the implementation of these in accordance with the drawings, and requiring that these are retained thereafter. These are necessary in the interests of local amenity and to secure sustainable transport.
19. I do not, however, consider it to be reasonable or necessary to impose conditions in respect of Energy Statements and Energy Performance Certification. Such conditions would be onerous given the nature of the proposals and some elements would be covered by other regulatory requirements.

Conclusion

20. For the reasons given above, taking into account all other matters raised, I conclude that the appeal should be allowed.

C Searson
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: Floor Plans and Elevations (Drawing No.1 Rev.P), and Block Plan (Drawing No.2, Rev.P).
- 3) The dwelling shall not be occupied as a HMO until space has been laid out within the site in accordance with Floor Plans and Elevations (Drawing No.1 Rev.P), for 4 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 4) The dwelling shall not be occupied as a HMO until space has been laid out within the site in accordance with Floor Plans and Elevations (Drawing No.1 Rev.P), for refuse storage facilities and that space shall thereafter be kept available for those purposes.
- 5) The use of the property as a House of Multiple Occupation hereby approved shall be occupied by a maximum of 5 people at any one time.
- 6) No independent cooking or laundry facilities shall be installed in any of the respective bedrooms and the communal lounge / diner, shall be retained in perpetuity.