



Appeal Decision

Site visit made on 11 June 2018

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2018

Appeal Ref: APP/W5780/W/18/3195145

35 Mortlake Road, Ilford IG1 2SX

- 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 Majid Khan against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 4872/17, dated 23 October 2017, was refused by notice dated 19 December 2017.
 - The development proposed is the change of use from single family dwelling house to House in Multiple Occupation (HMO) to accommodate up to 9 people.
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This decision is issued in accordance with section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 19 July 2018

Decision

1. The appeal is allowed and planning permission is granted for the change of use from single family dwelling house to House in Multiple Occupation (HMO) to accommodate up to 9 people at 35 Mortlake Road, Ilford IG1 2SX in accordance with the terms of the application, Ref 4872/17, dated 23 October 2017, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The Council adopted the Redbridge Local Plan 2015 – 2030 (LP) on 15 March 2018. The Council has confirmed that the policies in the Core Strategy (CS) and Borough Wide Primary Policies (BWPP) Development Plan Document referred to in its decision notice have been superseded by policies in the LP. Thus, CS policy SP3 has been superseded by LP policy LP26, whilst BWPP policies H2, BD1, H2 and T5 have been superseded by LP policies LP6, LP26 and LP23, respectively. I am satisfied that the aims of both sets of policies are similar and that neither party has been prejudiced by this change in policy circumstances. I have therefore determined the appeal accordingly.
3. I note that, as a consequence of the above however, the Council no longer consider the issue of amenity space provision to be a concern. Thus, both parties agree that the Council's fourth reason for refusal falls away. I see no reason to reach a different conclusion and I have not considered this matter any further.
4. My attention has also been drawn to a recently approved application¹ for a certificate of lawfulness for the proposed occupation of the appeal property

¹ LPA ref no: 0669/18 dated 13 April 2018

(certificate of lawfulness) as a 6-person house in multiple occupation (HMO). I have also noted that the submitted plans in the current instance refer to the rear dormer window and rooflights as having been approved under a separate permission². I have therefore considered the appeal accordingly.

Application for costs

5. An application for costs was made by Mr Majid Khan against the Council of the London Borough of Redbridge. This application is the subject of a separate Decision.

Main Issues

6. The main issues are the effects of the proposed development on:
 - The character of the area and living conditions of existing occupiers within it, with particular regard to noise and disturbance;
 - The supply of family housing;
 - The effect of the development on the availability of parking provision in the locality.

Reasons

Character and living conditions

7. Based upon the indicated bedroom sizes, the proposal would create an HMO capable of accommodating up to 9 people. LP policy LP6 (2) deals specifically with conversions of larger houses into 'Buildings in Multiple Residential Occupation' (HMO) whilst also cross-referencing criteria set out at LP policy LP6(1). Together, it is stated that the Council will only support proposals for the conversion of larger houses into buildings in Multiple Residential Occupancy where the gross floor area (GFA) of the property exceeds 180sqm and, amongst other factors, the proposal (1a) is located in a metropolitan, district or local centre; (1c) no significant loss of character or amenity occurs as a result of increased traffic, noise and / or general disturbance and (1d) appropriate car and cycle provision is provided in accordance with London Plan standards.
8. The gross floor area of the property is in the region of 150sqm, thereby falling below the GFA threshold described above. Nor has it been argued that the appeal site lies in a metropolitan, district or local centre. Rather, the Council describe Mortlake Road as being 'a quiet established residential area'. I saw it to be a long, straight street characterised by two storey terraced properties of a residential nature which the Council do not consider to be characterised by rental or subdivided properties, citing a low proportion³ of properties with planning permission for conversion into flats.
9. The appellant disputes this position, referring to 'a number of properties' further away being converted to flats, and 'a large number of HMOs on Mortlake Road and further away'. This, it is argued, demonstrates that rather than being characterised predominantly by family houses, the character of the street is more mixed. However, in my experience, it is not always clear from

² LPA ref no: 4084/17

³ LPA Statement of Case: 10 of 384 properties on Mortlake Road with permission for conversion from houses to flats

viewing properties whether or not they have been sub-divided or occupied as HMOs. My observations of Mortlake Road in this respect support such caution.

10. However, the appellant has relied only upon these vague statements and I note that they have not been substantiated. Having walked the length of Mortlake Road I saw and felt there to be a greater hustle and bustle and level of comings and goings the closer one gets to Ilford Lane. It is at this end of Mortlake Road, close to Ilford Lane, where the appeal site is situated. Thus, whilst I consider the Council's description of the street as being 'quiet' to be somewhat optimistic, from the evidence before me I am not persuaded that the Council's conclusion that the street is characterised by predominantly family homes is inaccurate for the purposes of assessing the proposal before me. Nor am I persuaded that there are the numbers of sub-divided properties or HMOs claimed by the appellant.
11. The proposed conversion would be capable of accommodating up to 9 people. It is possible that such a level of occupation, even if not operating at 100% occupancy, might be greater than that normally expected at a family dwelling. However, I am mindful that the appeal property benefits from a certificate of lawfulness as a smaller HMO (up to 6 people). I note too, the appellant's intention to implement that scheme and that as such it represents a fall-back position of considerable significance to which a significant amount of weight should be given.
12. From the evidence before me, I agree. Mortlake Road is not some quiet residential cul-de-sac or gated enclave. It may be characterised primarily by terraced family dwellings, but it is also a bustling residential road close to commercial properties and which provides access to a network of similarly terraced streets. Although additional levels of comings and goings and the trappings of up to 9 people living independently may differ from the living patterns of a family dwelling, I am not persuaded that there would be a material difference between the levels likely with the appellant's fall-back position and that proposed in this instance. Nor has it been demonstrated how any such differences, even if they were to exist, would be harmful to living conditions of nearby occupiers in the Mortlake Road environment that I observed at my site visit. It has not therefore been demonstrated that the proposal would cause a significant loss of character or amenity as a result of the proposal, and there would, I conclude, be no conflict with LP policy LP6(2)(b) or (1)(c) in this respect, whilst a condition to secure an appropriate Management Plan would ensure compliance with LP6(2)(c).

Housing supply

13. The proposal would result in the loss of a 3 bedroom dwelling, a type that the Council consider there to be a demonstrable shortage of, at least on the basis of their 2010 Housing Needs Survey. However, I am mindful of the fall-back position afforded by the recently granted certificate of lawfulness which would also result in the loss of a single family dwelling. Although I am advised that that scheme omitted the dormer window and rooflight elements I am nonetheless satisfied that the converted and enlarged building could continue to be occupied by a larger family unit. Whilst the proposal would result in the loss of a single family dwelling, the changes are minimal and the nature of occupancy reversible. Moreover, the loss of a single dwelling in these

circumstances would not be of material significance in the Council's ability to address housing supply issues.

14. As part of the Council's rebuttal to the appellant's application for an award of costs a number of planning appeal decisions⁴ have been referred to. However, I have not been provided with the details of those cases and so cannot be certain that they provide a direct or material comparison to the proposal before me. Moreover, giving significant weight to the fall-back position offered by the certificate of lawfulness, the proposal would not materially compromise any further the Council's ability to deliver a range of housing across the Borough. Nor would it, on the basis of the Council's records of a low number of HMOs in the

Planning balance

15. The appeal site is not within a Metropolitan, District or Local Centre as required by LP policy LP6(1)(a) and it falls below the 180sqm threshold set out at LP6(2)(a). The proposal does not therefore fully accord with LP policy LP6. However, the fall-back position afforded to the appellant by the certificate of lawfulness for the occupation of No. 35 as a smaller HMO is a material consideration to which I give significant weight. Thus, I am satisfied that the proposal would have no greater impact upon the Council's management of the supply of larger and family housing than would the fall-back position. Nor am I persuaded that the proposal would result in a level of comings or goings materially greater or any more harmful than that likely to arise from the fall-back position, which itself could see the property occupied at a level similar to that of a large family.

Parking provision

16. The proposed scheme would not make any provision within the site for the parking of vehicles. The proposal would therefore fail to accord with the requirements of LP policy LP23 and London Plan policy 6.13. However, nor is any parking provision made for the current occupancy of the appeal property and the property's front forecourt, although open, lacks the depth necessary to be able to park a vehicle on.
17. Parking spaces appeared to be at a premium, particularly closer to Ilford Lane, on the basis of my observations during the course of my visit to the site. However, it was by no means the case that there was no available space for parking along Mortlake Road at the time of my visit.
18. The site is in an area with only a modest accessibility (PTAL) rating of 2. However, the property is located at the end of Mortlake Road closest to Ilford Road, which appears to be a busy bus route and which provides access to further transport options in the centre of Ilford. Whilst the proposal may lead to pressure for parking, I am also mindful of the appellant's fall-back position that would allow for occupation as a small HMO for up to 6 people. Both parties have provided conflicting evidence in this respect but, as I am bound to give significant weight to the fall-back position, I am not persuaded that the proposal would result in a materially greater or harmful pressure for parking than that which may arise from the fall-back position.

⁴ APP/W5780/17/3176616; APP/W5780/17/3186259; APP/W5780/17/3181364 and APP/W5780/17/3175279

19. The Council allude to differing travel patterns, trip rates and parking demand for occupiers of a larger HMO compared to a family dwelling, but do not elaborate. Nor do they address the matter of the appellant's cited fall-back position compared to the proposal scheme in this respect. Therefore, although the proposal would not provide parking in line with the London Plan, London Plan policy 6.13 or LP policy LP23, I give the fall-back position significant weight. In light of that, it has not been adequately demonstrated that the proposal would be prejudicial to highway or pedestrian safety, or place unacceptable or harmful pressure on the availability of parking on Mortlake Street.
20. I have noted that it is stated by the appellant that the proposal would be a 'car free development', for which a condition may be used to secure that status. However, for the reasons set out above in reaching my conclusion on this matter, I do not consider such an approach to be necessary and I have not considered it further.

Conditions

21. I have considered the Council's suggested conditions in light of the National Planning Policy Framework and Planning Practice Guidance. Where necessary I have made slight amendment to the wording of the conditions in the interests of precision.
22. In addition to the suggested plans condition I have also imposed a time limit condition. Both are necessary in order to provide certainty. Given the room sizes indicated on the submitted plans, I consider that a condition restricting maximum occupancy is necessary in the interests of the living conditions of future occupants of the property. So too, a condition regarding a House in Multiple Occupation Management Plan (HMOMP).

Conclusion

23. The proposal would not fully comply with the provisions of LP policies LP6 or LP23, or with London Plan policy 6.13. However, for the reasons I have set out above, I give the fall-back position significant weight as a material consideration which would, in this instance, lead me to reach a decision not in accordance with the development plan.
24. For these reasons, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

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: site location plan; 101; 102; 103; 104; 105; 202; 203; 204; 205 and 206.
- 3) Within 3 months of the date of the permission hereby granted, a House in Multiple Occupation Management Plan (HMOMP) shall be submitted to and approved in writing by the Local Planning Authority. The HMOMP shall describe the means by which the HMO hereby approved shall be managed and shall include details on refuse management and maintenance of internal and external communal areas. The measures agreed in the HMOMP shall be implemented as agreed and retained as such thereafter.
- 4) The property shall be occupied by no more than 9 residents.