The Planning Inspectorate

Appeal Decision

Site visit made on 19 November 2018

by H Miles BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2019

Appeal Ref: APP/G5750/W/18/3207252
29 Abbey Road, Stratford, London E15 3JZ

- 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 Razegh Hamid against the decision of the Council of the London Borough of Newham.
- The application Ref 18/01204/COU, dated 1 May 2018, was refused by notice dated 22 June 2018.
- The development proposed is conversion of house into HMO.

Decision

1. This appeal is dismissed.

Procedural Matters

2. During the course of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. Both main parties have had the opportunity to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the revised Framework.

3. During the course of this appeal the London Borough of Newham formally adopted the Newham Local Plan 2018 (the Local Plan). This replaces 'Newham 2027 Newham's Local Plan – The Core Strategy (2012)' and 'Newham 2027 Newham's Local Plan Detailed Sites and Policies Development Plan Document (2016)'. Both main parties have had the opportunity to submit comments on the relevance of the adopted Local Plan to this case. I have taken any comments received into consideration.

4. In its evidence the Council refers to The London Plan The Spatial Development Strategy for Greater London Draft for Public Consultation December 2017. It notes that this is at an early stage of preparation as such limited weight should be given to these policies. I agree with this position.

5. In the evidence submitted there are differences between the submitted plans, the appellant's description of development and Council's assessment in relation to the number of bedrooms at the property. For the purpose of consistency I have amended the description of development above to remove any reference to the existing number of bedrooms. My detailed assessment in relation to this issue follows in my reasoning.

6. The description of development listed on the application form refers to the proposed use as an HMO. The submitted plans correspond with this description and the Council assessed the proposed development on this basis. In the description of development on the appeal statement the appellant adds *'after getting HMO license, I would like to change my house to a Bed & Breakfast for senior and disabled people'*, and the submitted evidence relates to use of the property as a Bed and Breakfast.

7. The Procedural Guide – Planning Appeals – England advises that *'it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.'* Given the nature of the proposals, the change of use to a bed and breakfast would be an entirely different proposal to the one that was subject to public consultation as part of this application process. To consider it now would deprive those who should have been consulted of the opportunity of such consultation. Therefore I shall assess this appeal on the basis of the proposal that was before the Council at the time that they made their decision.

Main Issues

8. The main issues are the effect of the proposed development on the supply of family housing in the Borough and the effect of the proposed development on the living conditions of neighbouring occupiers with particular reference to noise.

Reasons

Family Housing

9. Policies H1, H3 and H4 (of the Local Plan) together seek to prevent the loss of housing, with a particular emphasis on existing family housing, which is taken to mean properties with 3 or more bedrooms.

10. I observed, although the layout of the building differs to the submitted floorplans, the property was in use as a 3 bedroom dwelling with kitchen, reception room, garden area, outbuilding and built in storage. This would be suitable for family housing. The proposed development would change this to an HMO use.

11. I am not presented with any significant material considerations which would convince me to depart from the development plan. On this basis the appeal should fail as it would have a harmful effect on the supply of housing, in particular family housing, in the Borough and in this respect it would be contrary to the policies I find to be most relevant to this main issue: Policies H1, H3 and H4 of the Local Plan, the aims of which are set out above, and Policy 3.8 of the London Plan The spatial development strategy for London consolidated with alterations since 2011 (2016) (the London Plan) which seeks to ensure homes of different sizes that meet the requirements of Londoners, and to the relevant advice in the Framework.

12. The council refer to Policies S1, S6, SP1, SP2, SP3 and SP8 of the Local Plan in their reason for refusal. However, in the main, these policies relate to the high level spatial strategy and placemaking for the borough and considerations of design, healthy neighbourhoods and neighbourly development, therefore the policies listed above are most relevant to this case.

Living conditions of neighbouring occupiers

13. The existing three-bedroom property could reasonably be occupied by a household of six residents and such households are not restricted to those of a traditional family arrangement where day to day activities are carried out together. Furthermore, the size of the property (three bedrooms) would limit the number of future occupants. Therefore I do not find that the proposed HMO use would result in a significant increase in comings and goings over and above the existing situation.

14. Even if I were to find there was a notable increase in comings and goings, I am not presented with sufficient evidence to demonstrate that this location is so sensitive that the noise from additional pedestrian movements or from within the property would be so significant as to have a harmful effect on the living conditions of neighbouring occupiers.

15. Furthermore the appellant indicates that soundproofing and a management plan would be used to further limit any noise. If the application were recommended for approval, a mechanism to secure such measures could be sought.

16. The council has provided examples of other cases where noise in relation to HMO use is discussed[1]. However, I have been provided with very limited evidence in relation to the detail of these appeals and therefore I afford their specific circumstances limited weight.

17. For the reasons above I conclude that the proposed development would not have a harmful effect on the living conditions of neighbouring occupiers, with particular reference to noise. Therefore, in this respect, the proposed development would not be contrary to the policies I find to be most relevant to this main issue: Policy SP8 of the Local Plan which supports neighbourly development and proposals which avoid unacceptable exposure to noise, amongst other things, Policy 7.15 of the London Plan which, in part, seeks that development should avoid significant noise impacts, and to the relevant advice in the Framework.

18. The council refer to Policies H1, H3, SP1, SP2 and SP3 of the Local Plan and Policy 7.1 of the London Plan in their reason for refusal. However given, in the main, these policies relate to the high level spatial strategy and placemaking for the borough, specialist accommodation needs and considerations of health, design and lifetime neighbourhoods, the policies listed above are most relevant to this case.

Other Matters

19. The aims of the appellant to provide low cost visitor accommodation for elderly and disabled people is admirable. Notwithstanding the fact that this represents a significantly different proposal to the one before me now, I am not presented with any mechanism to secure that accommodation would be available on these terms. As such I do not find that these benefits outweigh the harm identified above.

[1] APP/G5750/W/17/3190798, APP/G5750/A/14/2216883, APP/G5750/A/14/2213508

Conclusions

20. Whilst I do not find harm in relation to living conditions, this does not outweigh my finding in respect of the unacceptability of the scheme's effect on the supply of family housing in the Borough.

21. For the reasons above, this appeal is dismissed.

H Miles

INSPECTOR