



Appeal Decision

Site visit made on 27 June 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/G5750/W/18/3213133

135 – 137 Leytonstone Road, Stratford, London, E15 1LH.

- 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 Ash Bari against the decision of the Council to the London Borough of Newham.
 - The application Ref 18/00826/FUL, dated 28 March 2018, was refused by notice dated 22 May 2018.
 - The development proposed is described as "convert existing mixed use building from housing A1 commercial space and C3 residential to a large HMO with 15 en-suite rooms."
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Decision

1. The appeal is dismissed.

Preliminary matters

2. During the processing of the planning application the proposed Class A1 element of the scheme was removed and the proposal changes to a 15 bedroom HMO across the ground, basement and first floor of the property. The Appeal has been determined on this basis and relates to drawing Nos: A.1. Rev.1, A.2. Rev.1, A.3. Rev.3, A.4. Rev.1, A.5. Rev.1, A.6. Rev.1, A.7. Rev.1, A.8. Rev.1, A.9. Rev.1 and A.10. Rev.1. Also, in this decision I have used the revised description for the proposal that was agreed by the main parties.
3. Since the appeal application was refused the Newham Local Plan (Local Plan) was adopted in December 2018. It replaces the London Borough of Newham Local Plan: Core Strategy 2012 and the London Borough of Newham Local Plan: Detailed Sites and Policies Development Plan Document 2016. Similarly, since the appeal application was refused the National Planning Policy Framework 2012 has been replaced, initially by the National Planning Policy Framework 2018 and subsequently by the National Planning Policy Framework February 2019.
4. Both the Appellant and the Council have had the opportunity to comment on the above changes during the processing of the appeal. For the avoidance of any doubt I confirm that the appeal has been determined on this basis.

Main Issue

5. The main issue is whether the proposal would deliver high quality and an appropriate form of housing, which provides satisfactory living conditions for its occupiers and is consistent with the housing objectives of the Borough.

Reasons

6. The appeal building occupies a prominent position adjacent to the junction of Leytonstone Road, which is a key movement corridor and Henniker Road, which is a residential street. The appeal site is approximately 200 metres from the emerging Maryland Local Centre and is located along a stretch of Leytonstone Road that is characterised by a mixture of commercial and residential uses.
7. The Council has stated that the lawful use of the Appeal premises appears to be Class A1 (retail) and Class C3 (residential). However, the appeal building is currently arranged as multiple rooms and the appellant has confirmed that the premises were used by a previous tenant as a hotel, albeit the use was unauthorised. Following enforcement proceedings, the building has remained vacant whilst a suitable use is found for it, although it has been unlawfully occupied by squatters.
8. Collectively and amongst other things Policies 3.5, 3.8 and 7.1 of The London Plan 2016 (The London Plan), seek a genuine choice of homes that are affordable and which meet the requirements for different sizes and types of dwellings. Housing developments should take into account strategic policies aimed at protecting and enhancing London's residential environment and attractiveness and have regard to their context and wider environment. Policies H12, H14, GG4 and D4 of The Draft London Plan 2017 (The Draft London Plan) encourage the delivery of more homes to meet identified local needs. This includes family housing and specialised housing, including accommodation for young people. At the same time, regard should be had to the aim to optimise the housing potential of sites and the ability of new development to reduce pressure on conversion and sub-division of existing housing stock.
9. Consistent with this, together and amongst other things Policies S1 and S6 of The London Borough of Newham Local Plan (Local Plan) seek transformational changes for the Borough with the overriding priority being to build and reinforce communities and places that work. This includes ensuring that growth contributes to achieving convergence. Higher density developments which create and sustain inclusive, stable, healthy, mixed and balanced communities are encouraged.
10. Within this context small and large HMOs from converted premises other than family sized dwellings are acceptable subject to policies H1 and H3 of the Local Plan. Collectively these policies allow for HMOs along Key Movement Corridors where they are compatible with other policies in the Local Plan. The characteristics and amenities of existing neighbourhoods should be protected and enhanced and any problematic cumulative impacts should be avoided. Proposals should be supported by a management plan which demonstrates that safeguarding risks are minimised; that opportunities to create and sustain social networks and access to appropriate support are maximised; and that the development is neighbourly. It should also be demonstrated that the HMO would achieve the local licensing benchmark criteria for mainstream HMO's.
11. The supporting text to these policies explains that about half of the Boroughs households are in private rentals, of which 25% are HMOs, which are evenly distributed within the Borough. Whilst Newham may be unable to provide enough family housing, it has sufficient capacity for flats and HMO's through

- purpose-built new build and conversions of non-residential uses and the reuse of redundant premises above shops in town centres.
12. The Council has acknowledged that the Appeal premises are within a key movement centre and that it does not provide a family sized dwelling. With the current layout of the building I agree that it does not provide a family sized dwelling. The proposal would not result in the loss of any existing housing; it would make use of an existing redundant building and could help reduce pressure on conversion and sub-division of the existing housing stock.
 13. The proposed external alterations to the appeal building would improve its appearance and quality and would respect the character and appearance of the surrounding area. In relation to use, the appeal site is located in an accessible mixed area comprising houses, flats, offices and commercial uses. No concentrations of HMOs were evident or have been identified by the Council. The access to the HMO would be from a door fronting Henniker Road, which is some distance from the closest neighbouring residential property. In addition, there are bus stops close to the property and this part of Leytonstone Road is a busy traffic route and a commercial area.
 14. It is noted that concerns have been raised by local residents relating to the lack of maintenance and management of the property, as well as unneighbourly behaviour by squatters. In view of the concerns raised concerning the effect of the proposal on the character and appearance of the area and the living conditions of local residents I consider that a management plan, as required by Policy H3 of the Local Plan, is required to demonstrate that the use would not cause such harm. As such it is not a matter that I consider could be left to be dealt with by condition.
 15. It is acknowledged that the sizes of the rooms within the proposed HMO would meet the size guidelines set out in The London Plan, The London Plan Housing Supplementary Planning Guidance 2016 (SPG) and The Technical housing standards – nationally described space standard 2015, published by the Department for Communities and Local Government.
 16. Notwithstanding this, together and amongst other things Policies SP1, SP2, SP3 and H1 of the Local Plan, Policy 3.5 of The London Plan and Policies D4 and GG4 of the Draft London Plan and the SPG, seek to improve the quality of housing. This includes the provision of adequate access to daylight and sunlight; comfortable and functional layouts, minimising overlooking, overshadowing and overbearing impacts; and making appropriate provision for private amenity areas in multi user buildings. As well as meeting the internal space standards all homes should also provide adequate external private open space.
 17. At basement level proposed bedrooms 1, 2 & 3 would be served by easterly facing windows that would look out into a shallow lightwell. As a consequence, notwithstanding the size of the proposed windows, the rooms they would serve would receive restricted levels of daylight/sunlight and the outlook would be particularly poor.
 18. At ground floor level, the windows to bedrooms 4, 5 & 6 would be immediately adjacent to the pavement in Henniker Road. Left clear glazed, passers-by would be able to look directly into these bedrooms resulting in very poor levels of privacy for the occupants. If the bottom window panes in these windows

- were obscure glazed this would significantly reduce the scope for looking into the bedrooms. However, it would leave the occupiers of the rooms with a poor outlook. The drawing of curtains/blinds would similarly affect the outlook from the rooms as well as reducing daylight.
19. As an HMO the occupiers of these bedrooms would likely spend lengthy periods in the bedrooms, when compared to an ordinary house or flat. As such a reasonable outlook and good levels of daylight are important to achieve a satisfactory living environment. In addition, whilst the main kitchen/lounge/diner is a generous sized room, it would be located at basement level. Its northerly outlook into a shallow and enclosed courtyard would be poor and lacking in daylight and sunlight. The situation would be exacerbated by the fact that the internal corridor at lower ground floor level would be devoid of any natural daylight.
 20. The proposal makes no provision for any external private amenity space, other than a narrow enclosed courtyard and a small front lightwell. Although it is accepted that in some instances it may not be possible to provide external amenity space, in this instance the quality of some of the proposed internal spaces, as outlined above, is poor. As a result, the absence of good quality private outside space weighs against the proposal.
 21. It is acknowledged that planning permission was granted for the use of the Appeal premises for an HMO in 2009 and that it was found to be compliant with the existing relevant development plan policies and supplementary planning guidance at that time. However, the Council has stated that this permission was not implemented and both the Council and the Appellant have confirmed that the permission has now lapsed. Planning policies at national and local levels have changed since 2009. Also, the 2009 scheme did not include any ground floor bedrooms with windows adjacent to the pavement in Henniker Road and did include a spacious and open private garden. Not only are the two schemes materially different, the appeal scheme needs to be assessed against the provisions of the current development plan for the area. Accordingly, whilst it is understandable that a good level of weight was given to the 2009 decision whilst it remained extant, it now carries very limited weight as part of the planning history of the appeal site.
 22. For these reasons I conclude on the main issue that the proposed HMO would fail to deliver a high quality and appropriate form of housing, which provides satisfactory living conditions for its occupiers. It would conflict with Policies SP1, SP2, SP3, H1 and H3 of the Local Plan, Policies 3.5, 3.8 and 7.1 of The London Plan, Policies H12, H14, D4 and GG4 of the Draft London Plan and the SPG. The proposal would also conflict with paragraph 127 of the Framework which seeks to create places which promote health and wellbeing, with a high standard of amenity for existing and future users and where the quality of life or community cohesion and resilience are not undermined.

Elizabeth Lawrence

INSPECTOR

