
Appeal Decision

Site visit made on 6 August 2019

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 22 August 2019

Appeal Ref: APP/G5750/C/18/3209949

Land at 2 Plaistow Park Road, Plaistow, London E13 0AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Inclusive Care Support Ltd against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 17 August 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission the material change of use to supported living accommodation.
 - The requirements of the notice are: 1. Cease the use of the property as supported living accommodation; 2. Remove from the property all fixtures and fittings that solely facilitate the use of the property as supported living accommodation; 3. Remove from the site all debris arising from compliance with steps 1 and 2.
 - The period for compliance with the requirements is: 5 months from the date this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the change of use to supported living accommodation at 2 Plaistow Park Road, Plaistow, London E13 0AL as shown on the plan attached to the notice, subject to the following condition:

Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the premises shall be used for supported living accommodation and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)).

Procedural Matter

2. I am aware that since the appeal was submitted, the Council has adopted the Newham Local Plan 2018. As a result, the London Borough of Newham Local Plan: Core Strategy (adopted January 2012) and the Local Plan: Detailed Sites and Policies Development Plan Document (adopted 20 October 2016) have been formally withdrawn. Although the policies from these plans referred to in

the enforcement notice are no longer relevant, they had aims very similar to the policies in the LP. Moreover, the LP was well advanced at the time of the appeal and the policies from it were clearly referred to and available for both sides to comment on. In view of this background, I am satisfied that neither side has been prejudiced by these changes to the development plan.

Main Issues

3. The main issues are:

- Whether there is an established local need for using the property as supported living accommodation, having regard to planning policies that seek to resist the loss of family dwellinghouses;
- Whether the site is in an appropriate location in terms of accessibility;
- The effect of the use on the living conditions of neighbours with regard to noise and disturbance from increased comings and goings.

Reasons

Local need and protection of family houses

4. Housing market assessment evidence in London shows that new developments are failing to provide enough affordable and family sized homes for the capital's growing population. The evidence in Newham is that the number of dwellings with 3 or more bedrooms declined between 2001 and 2009 and that if the proportional loss of family units continues at the same rate, Newham will fail to provide enough family homes. There are consequences around this trend such as population transience and how that can adversely affect community cohesion. It can also undermine aims of providing balanced communities if families either move out or cannot secure family accommodation in an area. To tackle these issues, planning policy H4 *Protecting and Re-shaping the Existing Housing Stock* from the LP seeks to specifically protect 3 bed and 4 plus bed family houses unless certain circumstances prevail. None of those apply to the appeal development.
5. However, policy H3 *Specialist Accommodation Needs* from the Local Plan does allow for new specialist (C2) housing that is directed towards local need. The technical criteria by which that additional local need is assessed in policy H3 is by having regard to the Council's Infrastructure Delivery Plan and advice from the relevant London Borough of Newham (LBN) service areas. In this appeal the Senior Commissioner for the Learning Disabilities and Mental Health Collaborative Commissioning Team from LBN advises that the appeal property *"has been accommodating and supporting 9 vulnerable Newham residents with learning disabilities since it opened in 2014"* and if the enforcement notice is upheld *"Newham Adult Social Care will need to decant the service and rehouse/re-support the 9 individuals"*. She goes on to say *"there is clearly a need for this service"*.
6. This is first hand evidence in line with policy H3. It supports very strongly the need for the specialist accommodation provided and in its absence the Council would need to find alternative places for those persons to live. This is compelling evidence that has not been disputed by the local planning authority.

7. Furthermore, the appeal property supports individuals who were previously accommodated in an Assessment and Treatment Unit. Placing persons like these, who each have support packages funded by Adult Social Care from LBN, is part of a wider national strategy to move away from long-term institutional care. In Newham the number of people with learning disabilities and/or autism going into supported accommodation has increased and that is likely to continue. Such vulnerable adults are therefore part of creating a mixed and inclusive community in Newham. There is no evidence that this form of use is creating an unbalanced community. This specialised residential use is also not incompatible with the predominantly residential surrounding land use.
8. Consequently, while it is the case that the scheme results in the loss of a family house, it clearly provides a home to meet the needs of other residents of the Borough whilst also meeting wider planning policy community aims. The development conflicts with LP policy H4, but it meets a local need for new specialist housing in accordance with LP policy H3. It also accords with the community facility aims of LP policy INF8, the inclusive, mixed and balanced community aims of LP policies S1 and H4, and the place-making and design aims of LP policies SP1 and SP3. The scheme also accords with the supported accommodation, housing, health and social care facilities aims of policies 3.8, 3.14 and 3.17 from the London Plan. It also meets the broadly similar aims of policies GG4, H10, H12, H14, S1 and S2 from the London Plan (draft for public consultation). I also find no conflict with the social objectives of the National Planning Policy Framework (the Framework).
9. Against this background, the development does not conflict with the development plan as a whole.

Accessibility

10. Although the appeal property is in an area where the PTAL rating is 3, which is average, the area has relatively easy access to a wide range of services and facilities via public transport. Also, due to the support needs of the home's residents, they are rarely unaccompanied and when taken on trips they usually go by minibus. Unlike more conventional housing the occupiers are thus not likely to travel individually or have access to their own car. Therefore, it seems to me that although the property is not in a town centre, it is appropriately located in terms of the ability to meet the needs of its occupants including via the provision of adequate transport and supporting facilities. I find nothing, against this background, to show that the location of the property could adversely affect the health and well-being of the home's residents.
11. I acknowledge that carers and support staff may come and go but given that a large house such as this could have previously accommodated several family members and what I have outlined about how the residents travel, it seems unlikely that there would be a material difference in comings and goings and associated parking. Consequently, even though the roads locally are in a controlled parking zone, there would be no undue pressure on the local parking situation. There is also no substantive evidence that the local roads are suffering from parking stress or that on road parking causes a highway safety problem. Although only a snap shot in time, I was easily able to park when I visited for my site visit during mid-morning. There were ample spaces just around the corner a very short walk away.

12. There is a suggestion that there would be a need for cycle storage. Although the use of bicycles by residents would seem unlikely to me, the rear garden would easily accommodate the secure storage of several bikes.
13. In view of the above, the development accords with the aims of policies SP1, SP2, SP3, SP8, H1 and INF8 from the Local Plan as they relate to place making and ensuring healthy and neighbourly developments, design, and building sustainable and mixed communities and providing community facilities. I also find no conflict with the associated and overarching aims of policies 3.17, 7.1, 7.2 and 7.14 from the London Plan and policies D1, H12, H14, S1 and S2 from the London Plan (draft for public consultation).

Living Conditions

14. In terms of noise and disturbance to neighbours, the use is still residential, albeit specialised, taking place in a residential area. Increased comings and goings to the extent that they in themselves are noisy are unlikely for the reasons already given. Moreover, this is a facility that provides care in a managed environment different from, for example, a large house in multiple occupation (HMO) whereby the residents live independently of each other and probably come and go much more frequently than the occupiers of a family home. The appeal house has been home to several individuals, but it has been the home for 7 of those over most of the time since it has been open. This points to a relatively settled household. While it is noted that Planning Inspectors have held that a HMO can be disturbing to neighbours, that is not what has been applied for here.
15. I also note that the property has been used as a care home since 2014. Apart from what appears to be a concern about noise and disturbance raised by one neighbour, there is nothing to show what that was about and there is no substantive evidence, such as from Environmental Health or a history of complaints, demonstrating that the operation of the home has been persistently unneighbourly over a reasonably lengthy time.
16. Therefore, I find that the use has not unduly harmed the living conditions of neighbours with regard to noise and disturbance from increased comings and goings. The development complies with policies SP1, SP2, SP3, SP8, H1 and H3 from the LP as they cover transforming Newham as an attractive place to live, creating healthy and quality neighbourhoods and ensuring neighbourly development. For the same reasons the scheme also accords with London Plan policies 7.1 and 7.15 and policies D1 and D2 from the London Plan (draft for public consultation).

Other Matters

17. My findings above are predicated upon the type of specialised residential use currently taking place. Although a change to another permitted use seems very unlikely, I consider that it is reasonable to ensure that the reasons why I have allowed the appeal and granted planning permission do not change without any scrutiny by the local planning authority in the future. I have therefore found it necessary to impose a condition that would prevent the use changing to another use. That is not onerous on the appellant and it only provides certainty to what has been granted planning permission.

Conclusion

18. I recognise that the appeal development means the loss of a family dwelling in Newham. Nevertheless, there is an identified need for the type of residential accommodation that is being provided. As such, and for the other reasons given, I have concluded that the appeal should be allowed. I should make clear though that my findings are based on the very particular circumstances of this development which I have considered carefully. My decision to allow the appeal should not be seen as a general acceptance that losing family houses in Newham would be justified in other proposed developments where the considerations are likely to be different. The merits of each change of use would need assessing on an individual basis.

Gareth Symons

INSPECTOR