



Appeal Decision

Site visit made on 1 October 2019

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2019

Appeal Ref: APP/E5900/W/19/3233084

First Floor and Second Floor, 12A Brick Lane, London E1 6RF

- 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 H Quadi against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/19/00494, dated 11 February 2019, was refused by notice dated 29 April 2019.
 - The development proposed is change of use of the first & second floors from education use (D1) to HMO (C4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address on the application form refers to the property as 12A Brick Lane in contrast to subsequent documents including the appeal form and decision notice which refer to 12 Brick Lane. I have used the most consistently used form for the purposes of this decision.
3. Representations submitted by a third party have commented that some of the proposed bedrooms would be within an extension which is the subject of an enforcement investigation by the Council. In response, the appellant comments that the extension has been in place for a period in excess of 4 years and that the Council has not taken action against the structure. However, this is not a matter which is before me as part of this appeal and my considerations below are confined to the proposed change of use only.

Main Issues

4. The main issues are (i) the effect of the proposed development on the provision of community facilities to meet local needs and (ii) whether or not the proposed development would provide suitable living conditions for future occupiers with particular regard to the provision of internal space.

Reasons

Community Use

5. The appeal site is a three-storey building located within the Fournier Street and Brick Lane Conservation Area. There is a restaurant at ground floor level, while the first and second floor levels which are the subject of this appeal are in education and training use (Use Class D1) and are currently occupied by the Middlesex Academy of Business and Management. It is proposed to convert the

- first and second floor levels to a house in multiple occupation (HMO) which would result in the loss of the existing Use Class D1 floorspace.
6. Factors which are considered important to support healthy and active lifestyles are identified within Policy SP03 of the Core Strategy 2010 (CS) and include the provision of high-quality social and community facilities. Policy DM8 of the Managing Development Document 2013 (MDD) states that health, leisure and social and community facilities will be protected and sets out that the loss of a facility will only be considered where it is demonstrated that there is no longer a need within the local community and the building is no longer suitable, or the facility is being adequately re-provided elsewhere in the borough.
 7. The appellant disagrees that business training, as currently provided by the appeal site, represents a community use, advising that it is a commercial service run for profit and that the occupiers cater for international students rather than the local community. However, Paragraph 8.4 of the MDD lists examples of social and community facilities for the purposes of Policy DM8 and includes 'other uses in Use Class D1 that provide a service to the local community'. This does not relate to the specific occupier of a site, rather it is the use of a site which is relevant. The National Planning Policy Framework (the Framework) refers at paragraph 20 to education uses as an example of community facilities, and the examples given of social and community facilities within the MDD also includes public houses which would be similarly run for profit. In this context, I find that the current D1 Use Class of the site would constitute a social and community facility for the purposes of Policy DM8.
 8. Turning to consider the loss of this facility, I have no evidence before me to demonstrate that there is no longer a need for space for education or Use Class D1 space within the local community, that the building is no longer suitable to provide such a use or that the facility would be adequately re-provided elsewhere in the borough. The development would not therefore fall within any of the situations outlined within Policy DM8 where the loss of health, leisure and social and community facilities may be permitted.
 9. In the absence of evidence to demonstrate that the loss of the Use Class D1 space would not be detrimental to the provision of community facilities to meet local needs, I therefore conclude that the proposal would conflict with Policy DM8 of the MDD and Policy SP03 of the CS which seeks to ensure such facilities are protected.

Living Conditions

10. Policy DM4 of the MDD requires adequate provision of internal space to provide an appropriate living environment for all housing developments, although it does not include specific standards applicable to HMO's. The London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011 (LP) promotes design quality in all new homes. Further guidance provided within the LP Housing Supplementary Planning Guidance 2016 (SPG) notes that where products such as HMO's are well-designed, they can play an important role in meeting housing need, however proposals should be good quality and meet all relevant Housing Act and HMO standards and requirements.
11. The proposed HMO would provide 9 single bedrooms, each including a small en-suite WC/shower. While a storage room and two additional WCs would be available, there would be no external amenity space and shared communal

space would be confined to the kitchen. This would serve all 9 occupiers and is of relatively limited size with no provision shown for a table or chairs which could allow occupiers to dwell in this space after preparing meals.

12. In the absence of any other communal space to allow groups of residents to congregate, it is therefore likely that they would spend a lot of time in their own rooms. While the Council have raised no objection to the scale of the proposed bedrooms, they would not be of significant size and I have no evidence to demonstrate that they would be capable of functioning as combined bedrooms and living spaces. The lack of any functional communal space to allow for leisure, relaxation and social interaction by the 9 independent occupiers together with possible guests would therefore result in poor quality accommodation.
13. I conclude that there would be inadequate provision for internal amenity space which would be detrimental to the living conditions of future occupiers. The proposal would therefore fail to comply with Policy DM4 of the MDD and the guidance within the LP Housing SPG which together seek good quality residential accommodation. It would also conflict with the requirements of paragraph 127 of the Framework which requires a high standard of amenity for existing and future users of all developments. Although the Council have additionally referred to Policy 3.5 of the LP, the LP Housing SPG advises that the standards within Policy 3.5 do not apply to specialist forms of housing such as HMOs. Reference is also made by the Council to LP Policy 3.4 and Core Strategy Policy SP09, but these relate to optimising housing potential with regard to local context and character and public transport capacity and to ensuring high-quality design of public streets and thus seem to me to be of limited relevance to this main issue.

Other Matters

14. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Fournier Street and Brick Lane Conservation Area (the CA). However, there would be no external alterations and I therefore find that the development would have a neutral effect on the significance of the CA and thus would preserve its character and appearance.
15. I acknowledge that the Framework outlines the Government's objectives of significantly boosting the supply of homes and the need to provide housing for different groups. However, this does not override the requirement that development is well designed to meet the needs of future users. I also note the appellant's suggestion that the Council's HMO licensing team are able to control the quality of accommodation offered. Nevertheless, the planning system has a wider responsibility for ensuring that the quality of accommodation is acceptable and does not result in harmful living conditions.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR