



Appeal Decision

Site visit made on 3 December 2019

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Ref: APP/Z5060/C/19/3223702

58 Cecil Avenue, Barking IG11 9TF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Siddarth Mahajan of Tulip Estates Limited against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
- The enforcement notice was issued on 21 February 2019.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of a single-family dwelling house to a House of Multiple Occupation.
- The requirements of the notice are:
 1. Cease the use as a house of multiple occupation;
 2. Remove all alterations and fixtures enabling the conversion to a house of multiple occupation;
 3. Remove all consequent waste material from the premises
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

The appeal on ground (a) and the deemed planning application

Preliminary Matter

1. The appeal relates to an extended terraced house situated in a row of similar properties. I saw from my site visit that the accommodation comprised seven bedrooms in total, with shared kitchen and bathroom facilities. One room on the ground floor contained a shower room for the use of the occupant (Room 1) and the other ground floor room (Room 2) contained a kitchenette with portable cooking facilities. Neither of these rooms were fully self-contained as the occupants would be reliant on the shared bathroom or kitchen facilities. The four rooms on the first floor were bedrooms only.
2. The second floor encompassed a bedroom, shower room and small kitchenette (Room 7). This could potentially be considered a self-contained flat as it appeared to provide basic amenities for the exclusive use of the occupant (toilet, personal washing and cooking facilities). However, it is not clear whether this was the case at the date the notice was served. The main parties refer to the use as a seven bed house in multiple occupation. I have not sought to amend the allegation to reference a self-contained flat as there is no dispute on this matter and I am not in possession of the facts in full.

Background and Main Issues

3. The appeal on ground (a) is that planning permission should be granted for the matters stated in the notice. The terms of the deemed planning application are derived from the allegation, hence, planning permission is sought for the change of use of the premises to a house of multiple occupation.
4. The main issues are the effect of the development on (i) the provision of family housing in the Borough; (ii) the living conditions of occupants and neighbours with regard to noise and disturbance and (iii) parking.

Reasons

Family Housing

5. The Council is concerned about the loss of a family house and cites Policy BC4 of the Development Policies¹, which seeks to preserve and increase the stock of family housing in the Borough. The policy states that the Council will resist proposals which involve the loss of housing with three bedrooms or more. I understand that the appeal property was previously a three-bedroom house, which would have fallen within the policy definition of 'family housing'. However, this policy was adopted before the publication of the National Planning Policy Framework (the Framework)², which makes it clear that the size, type and tenure of housing need for different groups in the community should be assessed and reflected in planning policies. The justification to the policy indicates that there is a current shortage of family housing, particularly four bedroom homes, in the Borough. This is based on the Barking and Dagenham Housing Strategy (2007-2010). However, I am not provided with any up-to-date evidence of housing need which considers the type of housing required to accommodate different groups in the community.
6. I accept that there is likely to be demand for family housing but, equally, there is likely to be demand for housing to meet the needs of smaller households. The justification to Policy BC4 acknowledges that conversions to flats can provide a valuable source of housing which can contribute to meeting housing needs in the Borough. Moreover, the appellant claims that the premises has been occupied solely by Council tenants, which supports his argument that this type of housing is in demand and meets a local need. The Council has not disputed the appellant's evidence from D and G Lettings Ltd³, which argues the premises is used successfully as emergency housing for up to 10 people or seven households.
7. I conclude on this matter that the development would not meet the requirements of Policy BC4 as it involves the loss of a residential property with three bedrooms or more. However, the circumstances in this case means that the premises provides accommodation for smaller households, particularly vulnerable people at risk of homelessness, thus also meeting a housing need in accordance with the wider policies of the Framework. I consider that the provision of accommodation for smaller households is a significant benefit which outweighs the conflict with Policy BC4 in this case.

¹ Barking and Dagenham Borough Wide Development Policies: Development Plan Document (adopted March 2011).

² February 2019.

³ Appendix 7 of the appellant's statement; email dated 5 June 2018.

Living Conditions

8. The appeal property is located within a predominantly residential area. The Council is concerned about the impact of the more intensive use of the appeal property on occupants and neighbours and argues that the alleged use does not respect the character of the area. However, the Council's evidence on this matter is very limited. There is no analysis of the area's character or an explanation of how the living conditions of occupants and neighbours would be affected.
9. While I accept that the occupants of a house in multiple occupation could generate more comings and goings than a single household, and potentially more noise and disturbance, there is nothing to show that activity at the appeal property is causing material harm. Moreover, the house could accommodate a relatively large or extended family which may generate a comparable level of noise and disturbance.
10. I conclude, therefore, that it has not been shown that the use of the premises as alleged would result in a material increase in levels of noise and disturbance to the detriment of the living conditions of occupants or other people living nearby. Therefore, the development complies with Policies BP8 and BC4 of the Development Policies which seek, among other things, to protect residential amenity.

Car parking

11. The Council claims that there is inadequate car parking for the number of residents. I saw that on-street parking in the area is restricted to residents on weekdays between 0830 and 1730. There was evidence of regular parking along the road but there was adequate space available at the time of my visit. I appreciate that this was during the time when the parking restriction was in force, and was a snapshot in time, but there is no information before me which shows the area suffers from parking stress on a regular basis.
12. Policy BR9 acknowledges that the local environment and accessibility of the site, development type and public transport will be taken into account when considering parking provision. In this case, the nature of the development, as a house in multiple occupation, indicates that parking demand may not be significant, especially as the site is very well-located for access to services and public transport. Overall, there is limited evidence that the development would lead to parking demand. In any event, it is not clear what effect demand for parking would have on the area. Whether the Council is concerned about highway safety or simply inconvenience for residents is not apparent from the submissions.
13. I conclude on this issue that the development is unlikely to generate significant demand for car parking and, hence, the development meets the aims of Policy BR9 of the Development Policies which concerns parking standards.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.
15. The appeal on grounds (f) and (g) does not therefore need to be considered.

Formal Decision

16. 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 Act as amended for the development already carried out, namely the use of the building at 58 Cecil Avenue, Barking IG11 9TF, as shown on the plan attached to the notice, as a house of multiple occupation.

Debbie Moore

Inspector