
Appeal Decision

Site visit made on 18 December 2019

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2019

Appeal Ref: APP/G5750/W/19/3235728

34 Holbrook Road, Stratford, London E15 3EA

- 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 P Jennings against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/01539/FUL, dated 31 May 2019, was refused by notice dated 25 July 2019.
 - The development proposed is the Conversion of a Small HMO (C4) to a Large HMO (Sui-Generis).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal is suitably located having regard to development plan policies for houses in multiple occupation (HMO);
 - the effect of the proposal on the living conditions of future occupiers with particular regard to the standard of accommodation;
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Whether suitably located

3. The appeal property is a three storey former dwelling which is in Class C4 (HMO) use. The lawfulness of that use is not in dispute in this appeal. Policy H1 of the Newham Local Plan 2018 (NP) seeks to deliver a full range of housing needs whilst ensuring quality neighbourhoods and a step change in residential quality. Its spatial strategy includes directing HMOs to appropriate locations in accordance with Policy H3. That policy deals with specialist accommodation. Amongst other things, it directs HMO conversions to Town and Local Centres and along Key Movement Corridors.
 4. Holbrook Road is a fairly lightly trafficked residential access road and the prevailing use surrounding the appeal property is residential. As such, the location of the appeal property does not accord with the relevant provisions of NP Policy H3. Whilst the property is currently in HMO use, the appeal proposal
-

is for a change of use requiring planning permission. Consequently, there is a statutory requirement to determine the application in accordance with the development plan unless material considerations indicate otherwise. I deal with the effects of the proposal on the living conditions of neighbouring occupiers below and with other material considerations in the Planning Balance. However, notwithstanding those matters, there is an 'in principle' conflict with the spatial strategy for HMO's set out in NP Policies H1 and H3.

5. The first reason for refusal also cites NP Policy H4. This policy seeks to protect certain types of existing housing stock, particularly family housing. The appeal property is currently in HMO use and there is no substantive evidence to show that the proposal conflicts with this policy. The first reason for refusal also refers to Policies 3.3 and 3.4 of the London Plan 2016 (LP), Policies GG4 and H1 of the draft London Plan 2017 (dLP)¹. For the most part these policies seek to boost the range and amount of housing in London. I deal with the extent to which such policies may support the proposal in the Planning Balance. However, there is no firm evidence to demonstrate that the proposal is in conflict with these policies.
6. Similarly, dLP Policy H5 deals with affordable housing and appears not to be relevant to the appeal proposal and Policy D4 deals with housing standards and adds little to my consideration of this main issue. The first reason for refusal also refers to the Framework, but the Council's evidence does not adequately explain how the proposal would conflict with it in terms of the location of the proposal.

Living conditions of future occupiers

7. The proposal would increase the occupation of the property from six persons (six single bedrooms) to nine persons (two double bedrooms and five singles). One of the additional bedrooms would replace the ground floor dining room. The dining space would be re-positioned in the existing kitchen area. However, this area would not be made larger and a significant portion of the room is too narrow to function as seating space. Moreover, the room would provide the only means of access to the external area to the rear of the property. Whilst the floor area of the room is slightly larger than the Council's *Private Rented Property Licensing Guide for Landlords and Managing Agents* minimum for a kitchen serving 8-10 people, given its constrained shape, access function and the need to accommodate dining as well as kitchen activities, I consider that it would be inadequate to meet the needs of future occupiers.
8. The second floor layout would be changed by swapping the communal lounge area with one of the bedrooms. The new lounge area would have a floor area of 6.54sqm, but would have only a narrow area of flat, full height ceiling. The remainder of the room would be under a fairly steeply sloping ceiling, severely limiting the layout of furniture and the usability of the room. Moreover, the second floor location of the room and the narrow, steep staircases leading to it make access inconvenient. Therefore, I consider that it would not provide adequate communal space for future occupiers.

¹ The examining Panel's report into the dLP has been published. It is therefore at an advanced stage in the preparation process. I have not been made aware of any unresolved objections to the policies cited in the reasons for refusal. Nor is there anything to suggest that they are inconsistent with the National Planning Policy Framework (the Framework). Therefore, in accordance with Framework paragraph 48, they can be given considerable weight in the determination of this appeal.

9. The Council argues that some of the bedrooms do not meet the space standards set out in the London Housing Supplementary Planning Guide. However, the Council also refers to the its Licensing Guide in this regard. That appears to be more directly applicable to the appeal proposal. The bedrooms would meet the space standards set out in the Licensing Guide.
10. Nevertheless, by virtue of the inadequacy of the kitchen, dining and communal lounge facilities I find that the proposal would not provide satisfactory living conditions for nine future occupiers with regard to the standard of accommodation. I note that the Inspector in a previous enforcement appeal case² reached a similar conclusion in respect of a proposal to subdivide the property into seven bedrooms, albeit that there were believed to be up to 11 occupiers at that time. The proposal would, therefore, conflict with LP Policy 7.6, dLP Policy D4 and NP Policy SP3. Together, these policies require development to provide high quality living accommodation, with adequately sized rooms and comfortable and functional layouts. Nor would the proposal accord with National Planning Policy Framework (the Framework) paragraph 127(f) which seeks places that promote health and well-being with a high standard of amenity. I note that dLP Policy D4 is not cited in the third reason for refusal. However, it is referred to in the first reason and, as such, all parties should be aware of its provisions.
11. The third reason for refusal also refers to LP Policy 7.1, dLP Policy D7 and NP Policies SP2 and SP8. However, these policies deal with matters such as lifetime neighbourhoods and the public realm and offer little assistance in my consideration of this issue.

Living conditions of neighbouring occupiers

12. The Council's evidence is that the existing use of the property has given rise to numerous complaints and it is relevant that the application attracted objections from three nearby occupiers on the grounds of noise, disturbance and anti-social behaviour. In particular there is concern that the rear external area has been used for parties, cooking and playing loud music. The appellant states its former managing agent told him that problems experience by one of the objectors were cause by the occupiers of no 32. However, that is second-hand evidence and does not fully explain the level of complaints directed at the appeal property.
13. The property's external area is modest in size for the number of occupiers proposed. It directly adjoins the rear gardens and is close to the rear windows of a number of residential properties. Therefore, over-intensive use of the area would have a direct effect on the living conditions of neighbouring occupiers.
14. My conclusions above regarding the inadequacy of the facilities for cooking, dining and congregation within the property reinforce the concern that such activities would spill out into the external area. The appellant argues that the proposal would only increase occupation of the property by three persons. However, given the history of complaints, the proximity of the external area to neighbouring properties and the inadequacies of the proposed internal accommodation, I consider that the additional occupation would be sufficient to adversely affect the living conditions of neighbouring occupiers with particular

² Appeal ref APP/G5750/C/13/2201689

regard to noise and disturbance. Again, it is relevant that the Inspector in the previous appeal came to a similar conclusion.

15. The additional occupation proposed and the configuration of the property are land use matters, rather than an issue of the identity of the occupiers. The appellant has indicated that the landlord intends to instruct a specialist HMO letting agent to select tenants and manage the property. However, no means of securing that outcome through any planning permission have been proposed.
16. Overall therefore, the proposal would conflict with LP Policy 7.1 and NP Policies SP2 and SP8. Amongst other things, these policies require development to enable people to live healthy lives, maximise cohesion, achieve good neighbourliness and fairness and reduce the likelihood of anti-social behaviour and stress, including through the housing mix. Nor would the proposal accord with Framework paragraph 127(f) which seeks places that promote health and well-being with a high standard of amenity for existing occupiers.
17. The second reason for refusal also refers to dLP Policy D7 and NP Policy SP3. However, these policies deal with urban design and the public realm and offer little assistance in my consideration of this issue.

Other Matters

18. The appeal site is within the Zone of Influence of the Epping Forest Special Area of Conservation (SAC). The Council has carried out an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 and found that, collectively with other projects, the proposal would be likely to have a significant effect on the sensitive interest features of the SAC. However, it has also determined that the proposal would put in place adequate measures to mitigate those effects. I see no reason to doubt the Council's Assessment or the mitigation measures proposed. Consequently, the likely effect of the proposal on the SAC does not weigh against it in this appeal.

Planning Balance and Conclusion

19. The Framework and the policies of the LP and NP seek to boost the supply of housing and recognise the contribution that HMO's can make to that provision. The appeal proposal would make a modest addition to the supply of HMO accommodation. However, the appeal property is not suitably located, the proposal would not provide adequate facilities for future occupiers and would adversely affect the living conditions of neighbouring occupiers. These concerns would outweigh the limited benefits of the proposal. As such, there is no justification for determining the appeal otherwise than in accordance with the development plan. I have found that the proposal would conflict with relevant development plan policies as well as with the Framework and, therefore, would not amount to sustainable development.
20. For these reasons, the appeal should be dismissed.

Simon Warder

INSPECTOR