
Appeal Decision

Site visit made on 10 March 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th April 2020

Appeal Ref: APP/U5930/W/19/3243951

117 Essex Road, Leyton, London E10 6BS

- 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 Mrs Anis Chowdhary against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 191330, dated 15 April 2019, was refused by notice dated 10 July 2019.
 - The development proposed is change of use from care home (C2 use) to dwelling house (C3 Use).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit the property was empty, however, from observations it was evident that internal layout work has already been carried out to facilitate its use for a residential dwelling. As such, the existing plans were not reflected, and I note these relate to the use of the property as flats and not the use as a care home. The proposed alterations to the ground floor rear fenestration had not been carried out. Therefore, I am dealing with the appeal on this basis and part retrospective.

Main Issue

3. The main issue is whether the loss of the care home harms the provision of specialised housing in the Borough.

Reasons

4. The appeal site is a two-storey end terraced property located within a predominantly residential area. The appeal site has an established lawful use¹ as a (C2) care home, catering for up to three persons with learning difficulties. In 2017 retrospective planning permission² was refused for a change of use from care home (C2) to 5x1 bed self-contained flats. It was subsequently dismissed at appeal³ in 2019 and the Council confirm that enforcement action is being undertaken.

¹ 2009/1247/CLE Dated 18/11/2009

² 173699 Refused 19 December 2017

³ APP/U5930/W/18/3205251

Loss of care home

5. Policy DM9 of the London Borough of Waltham Forest, Development Management Policies, Local Plan, 2013 (DMPLP) ensures that there is a supply of homes to meet a range of housing needs including accommodation needs of specific groups within the community. This policy includes those uses falling within Use Class C2⁴. Accordingly, the Policy resists development that involves the net loss of specialised housing unless it meets certain criteria, i) it can be demonstrated that there is a surplus of that form of accommodation in the area and is no longer required; ii) the existing accommodation will be adequately re-provided to an equivalent or greater standard elsewhere; and iii) it can be demonstrated that the existing accommodation is incapable of meeting contemporary standards of care.
6. The Council confirm that there was no supporting evidence or any justification advanced as part of the planning application to support the proposal for the change of use to a dwellinghouse. The appellant's evidence before me, sets out that the property was registered as a care home business in 1995, albeit the certificate of registration as a care service provider is dated 2010. The use then ceased in 2014 due to the owner closing the care home as they could no longer devote personal time to the residents necessary for the benefit and well-being of the residents.
7. The appellant states that they attempted several times to contact other care homes in the area to see if they were willing to buy the appeal premises, but there was no interest and they were advised that they were experiencing a lack of demand. Nonetheless, I have not seen any substantive evidence to support this theory or demonstrate the care home business was marketed for sale, other than a letter from the owner confirming this. I acknowledge the appellant's comments that only placements were received from other London Borough's, however the evidence is not clear, particularly as it relates to only one resident for an interim residential placement within the timeframe of 2013. Therefore, there is limited evidence and none to corroborate whether those other care homes had vacancies, or the reasons for their lack of interest in the appeal site or business.
8. Furthermore, there is insufficient information to clearly demonstrate there is a surplus of that form of accommodation in the area and is no longer required, and that it could be adequately re-provided to an equivalent or greater standard elsewhere. I find, therefore, that the proposal would not meet the first and second criterion in Policy DM9 of the DMPLP. Moreover, I have no evidence before me to demonstrate that the existing accommodation is incapable of meeting contemporary standards of care, as such it would also not meet the third criteria of Policy DM9 of the DMPLP.
9. In arriving at this conclusion, I have taken into account the previous appeal decision at the appeal site. The Inspector found that the change of use would result in the unjustified loss of specialised housing. As such, I have no reason to disagree with their findings, particularly as the case before me has similarities.
10. For the reasons given above, I conclude that the proposed development results in the unjustified loss of specialised housing required to meet the needs of the

⁴ The Town and Country Planning (Use Classes Order) 1987 (as amended)

community within the Borough. It would be contrary to Policy DM9 of the DMPLP, as I have set out above.

Other Matters

11. The appellant considers that the proposals should be acceptable on the basis of exceptional circumstances to return the property to a family home and is within a sustainable and accessible location. I recognise the appeal proposal would have benefits with regard to contributing to additional family housing in the area, albeit it would be limited due to the quantum of development proposed. Nonetheless, I have no substantive evidence to suggest that there is a lack or shortfall of family housing within the Borough and these matters do not outweigh my findings in respect to the conflict I have found with the development plan read as a whole.

Conclusion

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

KA Taylor

INSPECTOR