



Appeal Decision

Site visit made on 11 February 2020

by M Seaton DipTP MRTPI

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

Decision date: 27 May 2020

Appeal Ref: APP/W5780/W/19/3241480

7 Wellington Road, Wanstead, London, E11 2AN

- 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 Tharmalingham Sureshkumar against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 2753/19, dated 27 June 2019, was refused by notice dated 1 October 2019.
 - The development proposed is a change of use from C3 (residential) to a large HMO (sui generis) to accommodate 16 persons.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed conversion of the building to a large HMO would be contrary to local housing policies and would result in an adverse impact on the character of the area, and the effect of the proposed development on the existing on-street parking environment.

Reasons

Background

3. The appeal site occupies a position on the east side of Wellington Road and is set on a stretch of road between the junctions with High Street and Wellesley Road. The appeal property itself is a semi-detached two-storey building with additional rear roof extensions providing further accommodation at this level. The building is set back from the rear of the pavement behind a low wall and a modest area of private hardstanding where refuse/recycling bins were observed to be stored.
4. At the time of the site visit, works of conversion had been completed to the property to convert its occupation into 11 separate residential units, each with a studio style living room/bedroom, kitchen space and separate bathroom, and all of the units observed appeared to be occupied. The appellant indicates that the works of conversion were undertaken in 2012, but I note that the Council had subsequently commenced enforcement action in 2018 (*LPA Ref. E0380/18*) against the allegedly unauthorised works.
5. There is a certain degree of discrepancy as to what the precise lawful occupation of the property would be. The Council indicates the property to have

been listed as two residential flats, whereas the appellant has indicated that it was occupied as three residential flats in accordance with a planning permission from January 1980 when the property was acquired in 2004. I have also had regard to the Council's acceptance that a reference within the Officer Report erroneously referred to the conversion of an existing small HMO unit (C4). However, whilst I have no conclusive evidence before me to corroborate the implementation of the respective positions, I see no reason to conclude that the property would have been previously occupied other than as residential flats. This therefore must be the starting point for assessment of the change of use.

Policy analysis

6. In refusing planning permission, the Council has cited Policies LP5 & LP6 of the Redbridge Local Plan 2015-2030, adopted March 2018 (the Local Plan). These policies address *Dwelling Mix* and *Dwelling Conversions, Houses in Multiple Occupation and Buildings in Multiple Residential Occupation*, respectively.
7. Policy LP5 sets out that the Council will aim to secure a range of homes that will contribute to the creation of mixed, inclusive and sustainable communities, with the expectation that the borough's housing stock provides for a wide range of housing needs to meet the varied demands of a diverse population. Part of such an assessment is ensuring that a locality with an established character is protected from changes that would undermine that character. Furthermore, a significant need for larger homes within the borough has been identified with town centres highlighted as an appropriate location for new flats. However, the policy recognises that not all sites will be able to meet the preferred dwelling mix and percentages of 1-4bed units, with an assessment on a site-by-site basis required.
8. Policy LP6(2) sets out that support for the conversion of "larger houses" into Buildings in Multiple Residential Occupation (Sui Generis) will only be given subject to certain criteria. This includes where the gross floor area of the property exceeds 180m², where it is located in a Metropolitan, District or Local Centre, where there is no significant loss of character or amenity, where appropriate car and cycle parking provision is made, and subject to the provision of a Management Plan.
9. The appellant disputes the relevance of Policy LP6 to the proposed development with it contended that the policy is solely concerned with the loss of larger homes, and that as the site was last lawfully occupied by residential flats that the policy does not apply to the appeal proposals.
10. I note that the reasoned justification to Policy LP6 includes analysis of the impact on the loss of larger family homes, a housing type which Policy LP5 highlights there to have been a significant shortfall of within the borough. I recognise that there is a certain degree of variation in the use of terminology within Policy LP6 with reference to larger homes, larger houses, and in the reasoned justification, larger family homes, and that the Council's Glossary of Terms at Appendix 9 of the Local Plan offers no definition of larger homes and larger houses. However, despite this it is clear that whilst Policy LP6(2) is concerned with the impact of the formation of large HMOs and Buildings in Multiple Residential Occupation, the underlying purpose of the policy, as written, is also to resist the loss of existing larger homes to ensure the housing stock remains balanced and provides housing choice in the borough.

11. In this regard, I have considered the Council's brief reference to an appeal decision (*Ref: APP/W5780/W/19/3236613*) elsewhere within the borough. In that appeal, it is summarised that the Inspector concluded that it would be reasonable to apply the full weight of Policy LP6 in a situation where a small HMO was being converted to a larger HMO, given that the proposal would result in an intensification of use. However, whilst I do not have the benefit of the evidence placed before the Inspector in that instance, the wording of Policy LP6(2) is quite explicit in setting out that it is concerned with the change of use of larger houses only. An assessment of the impacts of that change can only flow from the meeting of this initial requirement, and it cannot therefore be correct that the application of the policy is applied without first meeting this.
12. I have accepted that prior to the current unauthorised use of the building that it had been previously converted to residential flats but have no details of the disposition and size of the previous flats. Nevertheless, it is not unreasonable given the overall size of the property to conclude that these units would not have been of a size to be regarded as larger houses or homes for the purposes of assessment against the policy, and there is no suggestion by the Council that they should be regarded as such. I do not therefore see a reasonable basis for the proposed development to be assessed against Policy LP6.

Impact on character

13. Turning to Policy LP5, I have already noted the requirement to ensure that a locality with an established character is protected from changes that would undermine that character. The Council has identified that Wellington Road comprises properties suitable for small or growing families and which contribute to the borough's single-family housing stock, and I would not disagree with that assessment for much of the street. However, the appeal property occupies a more transitional position much closer to High Street and the mixed commercial and retail premises situated in that location, as well as nearby either on or to the rear of Wellington Road, and in this regard the character of the vicinity is somewhat different to that further to the North on the street.
14. Whilst I recognise the Council's stance towards the protection of the character of an area in terms of the type of residential property, the appeal property already does not conform to the wider established character of dwelling-houses having been established lawfully as residential flats. In this regard the proposal would not undermine the character of the area by virtue of the loss of any further single-family housing stock.
15. The Council's principal further concerns relate to the consequences of the actual occupation of the property as an HMO. In particular the Council has highlighted the impact of the intensification of the use and the ensuing comings and goings and differing patterns of behaviour from those associated with a single-family dwelling. The consequent increase in the number of refuse bins, noise and disturbance, and general level of activity is also cited, as well as the impact on the living conditions of the neighbouring resident, with these impacts considered to be out of keeping with the pattern of development in the area.
16. In considering the planning application, the council has also referred me to a further planning appeal decision (*Ref: APP/W5780/W/18/3194537*) for a large

HMO for 11 people at 4 Ripon Gardens within the borough. In this decision the Inspector concluded that it must be reasonable to consider the theoretical occupation of the HMO based upon the size of the bedrooms rather than relying upon the stated proposed number of occupants. I would agree with this conclusion and in this instance note that the proposed number of occupants would be 16, whilst the theoretical capacity would be for 18 people. However, as an overall basis for assessment, I am satisfied that the difference between the proposed and theoretical occupation capacities would not be so significant as to alter my conclusions.

17. I have carefully considered the impacts of the proposed HMO and accept that there would be an intensification in the comings and goings related to the HMO in contrast with that of the lawful Class C3 use. However, whilst I recognise that the number of bed spaces as proposed for the HMO use would be greater, I am not persuaded that the potential difference in the quantum of occupation would be so significant as to result in the harm contended.
18. In drawing my conclusions on this matter, I have had particular regard to the location of the appeal site within relatively close proximity of the greater level of activity and noise and disturbance associated with the commercial and retail premises of the High Street, which I consider to be an important factor in assessing the impact of the proposed HMO. I have also noted that the Council has not provided any robust support to the claimed harm to the character of the area or living conditions of neighbouring occupiers from comings and goings in connection with the use of the property as an HMO, barring an unsubstantiated assertion. However, irrespective of whether there would be the likelihood of any impact, it would be reasonable to surmise that the impacts associated with either the lawful residential (C3) use or an HMO would depend on the lifestyles of individual occupants or family groups. In this regard, and in the absence of any compelling evidence from the Council, I am not persuaded with any certainty of the inevitability of the claimed levels of noise and disturbance from the occupation of the property as an HMO.
19. Turning to matters related to the provision of refuse storage and recycling facilities, and cycle parking, I note that the Council has incorporated within the Appeal Statement suggested conditions addressing these matters. From my observations of the appeal site and its curtilage, I see no reason why the provision of refuse/recycling facilities and an appropriate level of cycle parking could not be satisfactorily accommodated within the appeal site in such a manner as to ensure that there would not be an unacceptable visual impact within the street scene. Furthermore, I see no reason why, in accordance with the submitted 'HMO' Management Plan, refuse cannot be appropriately managed to ensure that there would not be an accumulation of rubbish on the appeal site resulting in harm to the living conditions of neighbouring occupiers.

Impact on parking

20. In determining the planning application, the Council highlighted the appeal site as being located within the WD Controlled Parking Zone, and that in order to ensure there is no material impact on on-street parking availability due to the significant uplift in separate households, any permission should be subject to an obligation that removes permit eligibility for all future occupants. Whilst I have not been provided with any technical evidence in this regard, from my

observations of the area there is a significant demand for on-street parking. This is not a conclusion which has been disputed by the appellant.

21. I note that an obligation was not completed and signed during the progression of the planning application, and neither has one been during the course of the appeal. Nevertheless, despite the absence of a planning obligation, the Council has proposed to deal with this matter by the imposition of a negatively-worded planning condition as a means of securing a scheme to exclude future occupiers (with the exception of a holder of a disabled person badge) from any Local Car Parking Permit Scheme which may be in force in the area.
22. However, the Council has not provided me with any details as to how such a scheme secured by planning condition might work in practice. Furthermore, the Council has not provided a reason for the suggested condition or details of any assessment against the Local Plan or paragraph 55 of the National Planning Policy Framework (the Framework) as to compliance with the six tests for the use of planning conditions, including whether the condition would be enforceable. I am not therefore persuaded that the condition would meet in full the requirements of paragraph 55 of the Framework.
23. As an alternative, I have considered whether it would be possible to use a negatively worded condition to require the appellant to enter into a planning obligation to secure the proposed development as permit-free. However, the Planning Practice Guidance is clear that this should only be in exceptional circumstances where there is clear evidence that the delivery of development would otherwise be at serious risk, particularly in respect of complex development schemes. In this instance, I do not regard this threshold to have been met as the scheme is not particularly complex.
24. In the absence of a feasible means of securing the development as permit-free, the proposal would harm the parking environment through the additional demand from the proposed development, which would not be mitigated.

Planning Balance and Conclusion

25. I have concluded that the proposed development would neither result in conflict with the housing policies of the Local Plan, nor would there be an adverse impact on the character of the area. I have not therefore found there to be conflict with Policy LP5 of the Local Plan, or the relevant sections of Policy LP26 as they relate to the character of an area.
26. However, I find that the failure to appropriately secure and address the need for mitigation of the impact on on-street parking would result in the proposed development having an adverse impact on the existing on-street parking environment. This would conflict with Policy LP23 of the Local Plan which seeks to ensure that new development provides sufficient car parking and considers the application of residential parking permits and controlled parking zones, in order to manage areas where parking is congested on local streets.

Martin Seaton

INSPECTOR