



Appeal Decision

Site visit made on 6 October 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/Y5420/C/20/3248076

38 Sydney Road, London N8 0EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Neetraj Jeebun against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 24 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of a single family dwelling house to a House in Multiple Occupation HMO (use Class C4).
 - The requirements of the notice are to cease the use of the property as a House in Multiple Occupation (HMO).
 - The period for compliance with the requirements is 5 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the appeal is exempt from the payment of fees, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act fall to be considered.
-

Decision

1. 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 land at 38 Sydney Road, London N8 0EX, as shown on the plan attached to the notice, for a House in Multiple Occupation HMO (use Class C4).

Ground (a) appeal and the deemed planning application

Main issue

2. The main issue in the appeal is the effect of the development on the provision of small family dwellinghouses in the Borough.

Reasons

3. The 2-storey semi-detached appeal property, possessing a substantial 2-storey rear outrigger extending deep into the plot, is of sufficient size and space to enable it to have acquired a licence from the Council to operate as a 5-bedroomed HMO with communal facilities.
4. The Council says that the development results in the loss of a small family dwellinghouse and directs my attention to the 2011 Strategic Housing Market Assessment (SHMA) which found that there was a serious shortage of small family residential dwellinghouses in the Borough. I note and accept the findings of the SHMA.

5. However, the policy which the Council uses to support its enforcement action (Policy DM17 of the Haringey Development Management Development Plan Document 2017 (DPD)) permits the conversions of 'larger' homes to HMOs if criteria are met. Its supporting text says that HMO accommodation plays an important role in meeting particular housing needs, especially for low income residents, young people and those needing temporary accommodation.
6. This policy, involving 'larger homes', applies to properties where the gross original internal floor space of the existing dwelling is greater than 120m². The appellant has submitted a scale floor plan of the property and argues that this criterion is met. The Council has suggested that the property has a smaller floor area than set out in the criterion, based on plans relating to a different property at 34 Sydney Road. However, the appeal property is by comparison larger in footprint and, in the absence of substantive evidence from the Council directly relating to the appeal property, I have no reason to doubt that the plan submitted by the appellant accurately reflects the dimensions of the original building. Based on my consideration of it, including scale measurements of the total floor space between the internal faces of the perimeter walls, I find that the criterion is met.
7. I have also seen no substantive evidence from the Council that the appeal property fails to meet the other criteria in Policy DM17.
8. The Council has not made a case that the appeal development gives rise to any significant adverse amenity impact(s) on the surrounding neighbourhood, including cumulative impacts arising from an overconcentration of HMOs within an area. I have no reason to find that it does.
9. I also have no reason to find that the appeal property is not accessible by public transport, cycling and walking. Hornsey and Turnpike Lane railway stations are within ready walking distance.
10. The Council has not provided evidence that the appeal development does not provide high quality accommodation that satisfies the relevant policies of the Local Plan, including internal space standards, provision of a satisfactory level of amenity space for occupants, and adequate and convenient refuse storage and collection. In this regard I note in the appellants favour that the property has been granted a HMO licence under the Housing Act 2004, as well as his submissions (unchallenged by the Council) that he has carried out works to meet the required standards. The HMO licence is also evidence that there is adequate kitchen space for each household, the final criterion of the policy.
11. For the above reasons I find that the appeal development does not result in the loss of a small family dwellinghouse, and that there is no conflict with Policy DM17 of the DMP which supports the conversion of larger homes to HMOs in certain circumstances.

Conclusion

12. I conclude that the appeal should succeed on ground (a) and planning permission will be granted. I am quashing the enforcement notice.

Andrew Walker

INSPECTOR