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## Appeal Decision

Site visit made on 6 October 2020

**by Graham Wyatt BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29<sup>th</sup> October 2020**

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**Appeal Ref: APP/W5780/W/20/3246646**

**23 Perth Road, Ilford IG2 6BX**

- 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 Gita Patel against the decision of the Council of the London Borough of Redbridge.
  - The application Ref 3115/19, dated 23 July 2019, was refused by notice dated 23 January 2020
  - The development proposed is described as "Change of use from small HMO (C4) to large HMO (Sui Generis). Part ground and part-first-floor rear extensions".
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### Decision

1. The appeal is dismissed

### Preliminary Matters

2. The description of the development is taken from the Council's decision notice as it more accurately reflects the proposal.
3. The Council state that first floor plans were not submitted with the planning application and thus, in accordance with the application form, it considered the development as a nine bedroom house in multiple occupation (HMO). However, the first floor plans<sup>1</sup> provided with the appeal documents indicate that the development would provide eight bedrooms, five of which would be on the ground floor and a further three on the first floor.
4. I have considered this drawing under the principles established by the Courts in Wheatcroft<sup>2</sup> and I am satisfied that the drawing does not change the development to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the first floor drawing showing a development of eight bedrooms.

### Main Issues

5. The main issues are the effect of the proposed development on the:
  - living conditions of adjoining occupiers with particular regard to noise and disturbance, overlooking and outlook;
  - housing mix of the area; and,
  - character and appearance of the area.

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<sup>1</sup> Drawing K – Proposed First Floor Extension

<sup>2</sup> Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] P&CR 233

## Reasons

### *Living Conditions*

6. The appeal site lies on the edge of a predominantly residential area. There are blocks of flats erected opposite and adjacent to the appeal site, which is also in close proximity to the mixed use, commercial area of Gants Hill and its tube station. The appellant argues that in such a location, which is also close to a busy roundabout, noise and disturbance in the area already occurs. Therefore, the use of the building as a large HMO would not unduly impact on the living conditions of adjoining occupiers.
7. The site is currently occupied as a small HMO falling within Use Class C4 which limits the number of people that can reside at the site. This in turn limits the amount of activity that occurs within the building and associated noise, disturbance, waste storage requirements and so on. The proposal before me is to change the use to a large HMO with a licence granted for six households and up to eight people.
8. The occupiers of an HMO are likely to lead independent lives from one another. It must therefore be accepted that the level of occupancy proposed would reasonably result in an increase in activity of tenants, when compared to a family unit, or indeed a small HMO. Moreover, notwithstanding that the neighbours at 21 Perth Road (No. 21) is separated from the appeal site by an alleyway and that 25 Perth Road (No. 25) is being used as a small HMO, the occupation of the building as a large HMO would result in additional noise from pedestrian and vehicular comings and goings to the property by the occupiers, as well as an increase in visitors and other movements associated with deliveries and servicing.
9. Furthermore, the use of the building as a large HMO could also result in additional noise from separate televisions and radios in bedrooms and general socialising within the kitchen/common room and outside communal areas. This is over and above that which could be expected if the building was occupied by a large family or as a small HMO and is likely to result in a conflict with the neighbouring residential uses in the immediate vicinity.
10. Although close to the commercial area of Gants Hill, Perth Road has quite a different character containing mainly residential properties in the vicinity of the appeal site. Moreover, the roundabout at Gants Hill is served by major routes such as the A12 and the A123 and although some 150m from the appeal site, the level of traffic between the areas is markedly different. Thus, whilst the wider area appears to be particularly busy, it has not been demonstrated that this level of activity extends into Perth Road. In addition, noise from passing traffic is quite different to noise generated through the occupation of a building.
11. The appellant has submitted a management plan which states that the HMO would be managed by an appointed agent. Such an agent would be responsible for the day to day management of the building including nuisance and anti-social behaviour. However, I have little else before me by way of specific detail as to how the property might be managed in practice so as to satisfactorily control or prevent the risk of noise disturbance to nearby residents. Given the potentially significant harm to the living conditions of neighbouring occupants which could arise, I am not satisfied that such matters could be dealt with by condition in this instance.

12. Turning to the proposed extensions, the ground floor element would be set back from the shared boundary, allowing a degree of separation between the development and the adjoining garden area at No. 25. This would ensure that a sense of enclosure does not occur. The first floor extension would be sited towards the middle of the rear elevation, retaining space on either side so it would be set in from the adjoining property at No. 25. There is also an alleyway between the appeal site and the neighbour at No. 21. As a result of the separation distance between the neighbours and the proposed first floor extension, I am not persuaded that it would create an overbearing development or indeed a sense of enclosure to habitable rooms.
13. However, the proposed elevations indicate that windows for the first floor extension would be inserted into both end and side elevations. Whilst the windows in the end elevation would allow overlooking to the rear gardens of Nos 21 and 25, this would be similar to the existing arrangement. However, the windows proposed in the side elevations would nevertheless allow unrestricted overlooking to the patio areas of Nos 21 and 25, resulting in harm to the living conditions that occupiers of these properties currently enjoy. Although a condition could resolve this matter, it would not overcome the harm that I have identified above.
14. Thus, the development would result in harm to the living conditions of adjoining occupiers through noise and disturbance. It would be in conflict with Policies LP5, LP6, LP24 and LP26 of the London Borough of Redbridge Local Plan 2015-2030 (the Local Plan) adopted March 2018 which seek, amongst other things, to ensure that developments do not result in the significant loss of amenity as a result of noise, general disturbance, overlooking and outlook.

#### *Loss of Family Dwelling*

15. Policy LP5 of the Local Plan seeks to secure a range of homes to ensure a good housing mix and prioritises larger family homes (three or more bedrooms). However, the appeal property is currently being occupied as a small HMO and is in C4 use. Consequently, as the appeal property is not being used as a family house, in this particular case, the proposal would not result in a loss of a family dwelling or conflict with policy LP5 of the Local Plan.
16. However, Policy LP6 of the Local Plan states that the Council will only support the conversion of larger houses into Buildings in Multiple Residential Occupation (Sui Generis) where the gross floor area of the property exceeds 180 sq. m, a management plan is provided and that it and meets the requirements of criteria 1 (a), (c) and (d) of the Policy. These matters seek to ensure that the site is located within a Metropolitan, District or Local Centre, that no significant loss of character or amenity would occur as a result of noise and/or general disturbance, and that appropriate car and cycle parking are provided. There is no dispute between the parties that the floor area and parking provision would satisfy Policy LP6 and the appellant has provided a management plan.
17. However, although close to Gants Hill, the Council confirm that the site is not located within a Metropolitan, District or Local Centre. In addition, the change of use would also result in a loss of amenity to adjoining occupiers for the reasons as set out above. Consequently, on this basis the conversion of the property to a large HMO (Sui Generis) would be in conflict with Policy LP6 of the Local Plan, the specific requirements of which are specified above.

### *Character and Appearance*

18. The proposal seeks to erect a single storey and a first floor extension to the building. The property benefits from an existing single storey extension which projects beyond the rear elevation of the building, although retaining a small decked area. This particular element would effectively square off the existing ground floor extension with a small space retained as an area of additional garden. At first floor level, the proposal seeks to extend over the existing ground floor extension.
19. The existing single storey extension already exceeds the dimensions as set out within the Council's SPD<sup>3</sup> (the SPD). Therefore, although the proposed single storey extension would also exceed the rule of thumb figure set out within the SPD, it would be seen against the existing extension and would not be regarded as excessive. The first floor extension would also be sited towards the middle of the rear elevation, retaining space on either side. Therefore, I am not persuaded that the proposed extensions would result in harm to the character and appearance of the area.
20. Thus, I do not find that the development would have an unacceptable impact on the character and appearance of the area. It would not be in conflict with Policy LP26 of the Local Plan, which seeks, amongst other things, to ensure that developments respect the existing layout of buildings and take opportunities to improve the area's character and quality.

### **Conclusion**

21. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

*Graham Wyatt*

**INSPECTOR**

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<sup>3</sup> London Borough of Redbridge Housing Design Supplementary Planning Document (SPD) 2019