



Appeal Decision

Site visit made on 21 October 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Appeal Ref: APP/Y5420/W/20/3244356

165 West Green Road, Tottenham, London, N15 5EA.

- 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 Bensar Ltd against the decision of the Council of the London Borough of Haringey.
 - The application Ref. HGY/2019/2310, dated 8 August 2019, was refused by notice dated 7 October 2019.
 - The development proposed is the conversion of a house (Class C3) to a House in Multiple Occupation (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a house (Class C3) to a House in Multiple Occupation (Sui Generis) at 165 West Green Road, Tottenham, London, N15 5EA, in accordance with the terms of the application, Ref HGY/2019/2310, dated 8 August 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: HA/155/P/HMO/01; HA/155/P/HMO/02; HA/155/P/HMO/03; HA/155/P/HMO/04 and Design and Access Statement.
 - 2) Unless within 3 months of the date of this decision a scheme for the provision of refuse and waste storage and recycling facilities is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within a further period of three months of the local planning authority's approval, the use of the site for an HMO shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained while the HMO use remains.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Main Issues

2. The main issue is whether the proposed HMO would accord with local policy on the development of HMOs or result in the loss of family housing to the detriment of local housing needs.

Reasons

Background

3. The appeal site comprises a two storey terraced house in a street of similar properties. It is apparent that the original property has been extended with an extension to the rear and an attic conversion with a rear dormer, including in the roof of the outrigger, as carried out under 'permitted development'. It is proposed to convert the property to a HMO with 7 lettable bedrooms, 6 of which would have ensuite facilities. The proposal is retrospective.
4. The appeal site lies in an area which is subject to an Article 4 Direction which restricts 'permitted development' rights to change the use of a dwellinghouse to an HMO. Further, the site lies in an area designated as a Family Housing Protection Zone although it is not clear from the Council's representations to which policy in the development plan this relates to.

Effect on stock of family houses

5. The starting point of the assessment is Policy DM17 of the Development Management DPD (2017). The reason for refusal also refers to Policy SP2 of the Haringey Local Plan (2013) but this appears to be an overarching policy on overall housing provision within the Borough; density and standards; and provision for the renewal and improvement of housing estates, without specific reference to HMOs.
6. Policy DM17 indicates, in summary, that proposals for the conversion of larger homes into HMOs will only be permitted where they accord with stated criteria. Criterion (a) of this is where the 'gross original internal floor space of the existing dwelling is greater than 120sqm'. There is an apparent ambiguity within this criterion as the first part of it refers to the *original* dwelling whereas it later refers to the *existing* dwelling.
7. In terms of the appeal site property the Council suggests that the internal floorspace of the original dwelling, assessed as at 1948 when the Planning Act took effect, was in the region of 75sqm, and later indicates that the original floorspace was 108sqm. Therefore, on the face of it the proposal is not acceptable as the host dwelling is not large enough. The appellant says that since the additions and attic conversion, constructed lawfully in 2018, the existing property has an internal floor area of about 155 sq.m.
8. It is apparent that other Inspectors have grappled with the interpretation of Policy DM17 and the appellant refers to two appeal decisions¹ where in one the Inspector concluded that subsequent additions to the existing dwelling meant it was close to 120sq.m in size and conversion to an HMO was accepted. While in the other case the Inspector concluded that there was inadequate evidence on the threshold being exceeded. The Council refers to an appeal decision² where the Inspector is said to have dismissed the appeal as the property was below the 120sq.m threshold.
9. Dealing with this case on its individual merits it appears to me that while the original property was below the threshold and therefore not large enough for an HMO use, the property was lawfully enlarged and subsequently the 'existing'

¹ APP/Y5420/W/16/3159542 & APP/Y5420/W/18/3213394

² APP/Y5420W/18/3206091

- property is of a size where Policy DM17 allows the principle of conversion to an HMO.
10. Moreover, even if this interpretation is incorrect, criterion (a) is only one aspect of Policy D17. In terms of the other criteria, the Council agrees that the conversion of the property to a HMO has not given rise to significant adverse amenity impacts on the neighbourhood and no evidence is presented to demonstrate that there is an over-concentration of HMOs in the area, so criterion (b) is met. Further, there is no evidence that the conversion does not satisfy Environmental Health standards under (c) where a separate licencing system is in operation in any event.
 11. Under (d) the Council acknowledges that the site has a Public Transport Accessibility Level (PTAL) of 4 which indicates that access to public transport is good and the closeness of the site to an underground station and a bus route is evident, so this criterion is met.
 12. In relation to (e) the Council agrees that the HMO units as converted meet the internal space standards of the Local Plan and Housing SPG and as set out in the London Plan. Moreover, the photographs submitted with the appeal show the conversion work has resulted in high quality accommodation. Finally, in terms of (f) the submitted plans show that the individual units are not self-contained but share a kitchen and dining room and the majority have ensuite shower and toilet facilities.
 13. The proposal meets the requirements of parts (b) to (f) of Policy DM17. Therefore although there may be a conflict with one interpretation of the limitation in criterion (a), when the policy is considered as a whole, and taking account of the size of the existing property, I am satisfied that the proposal reasonably accords with the overall policy and would not result in a material loss of a family house. This is not outweighed by other considerations and the appeal should therefore be allowed.
 14. The Council requests three conditions be imposed if permission is to be granted. However, condition 1 is not necessary as the application is retrospective and the development has already commenced. Condition 2 relates to the plans that are considered and I will impose this as it is necessary in the interest of clarity and to ensure that the development meets the policy where relevant. It is also necessary to have a condition regarding the disposal of refuse and waste and the provision of recycling facilities in the interest of amenity and to avoid pollution, but this cannot be 'before development commences' as the Council requests, and I will amend this condition accordingly.

Conclusion

15. For the reasons give above I conclude that the appeal should be allowed.

David Murray

INSPECTOR