



Appeal Decision

Site visit made on 27 October 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2020

Appeal Ref: APP/Z5060/W/20/3253029

122 Halbutt Street, Dagenham RM9 5AP

- 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 A Cikanavicius against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 20/00404/FUL, dated 19 March 2020, was refused by notice dated 7 May 2020.
 - The development proposed is described as 'conversion of property into small HMO'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant's statement explains that the ground floor bedroom shown on the existing and proposed layout drawings considered by the Council is and will continue to be a store room. An amended proposed layout has been submitted with the appeal. It replaces the ground floor bedroom with the store room and the toilet with a shower room. It also shows a bedroom to the front and a lounge to the rear of the property on the ground floor, which is consistent with what I saw during my site visit.
3. It is important that the scheme I consider is essentially that which was considered by the Council and on which interested parties' views were sought. To do otherwise would be prejudicial to the Council's position and to that of other parties. I cannot be certain there are not interested parties who did not comment on the basis of being content with the scheme as submitted and are unaware of the changes. In addition, I cannot be certain that interested parties are aware of the revised layout drawing and their interests could potentially be prejudiced if I were to take it into account. Therefore, in the interests of fairness, I have made my decision based on the proposal as shown on the drawings that were consulted upon and on which the Council based its decision.

Main Issues

4. The main issues are: (i) the effect of the proposal on the supply of family housing; (ii) the effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance; and (iii) whether the proposal would provide an appropriate standard of accommodation for the occupiers of the development in respect of internal space.

Reasons

Supply of family housing

5. The appeal property is located at the end of a 2 storey terrace. It includes 5 bedrooms and it is proposed that 5 people would occupy the House in Multiple Occupation (HMO).
6. Policy BC4 of the Council's Borough Wide Development Policies Development Plan Document (DP) seeks to preserve and increase the stock of family housing in the borough. It states that proposals involving the loss of housing with 3 bedrooms or more will be resisted. It is explained that this approach has been adopted because there is a shortage of family sized homes in the area. The policy permits changes of use to HMOs in other circumstances subject to several criteria being satisfied; however, they are not applicable where there would be a loss of 3 bedrooms or more.
7. The proposal would result in the loss of a house with more than 3 bedrooms. In addition, the number and size of the rooms mean that it is presently suitable for occupation by families. While it features a relatively small rear garden; this in itself does not render it inappropriate. DP Policy BP5 sets out standards for external amenity spaces, but these only apply to proposed development.
8. The appellant puts forward that HMOs are an important part of housing provision. However, no evidence has been submitted which demonstrates that there is a need for HMOs or a lack of demand for family housing in the borough or more locally. It is contended that the property is unlikely to meet the current housing standards for a 5 bedroom dwelling as set out in the London Plan (LP) and the Space Standards¹. However, no specific standards are referred to and minimum space standards also only apply to proposed development. It is also argued that the property originally featured 2 bedrooms and thus it was not intended for family use. Whilst that may be the case, it nonetheless has more than 3 bedrooms now and is suitable for occupation by a family.
9. The proposal would therefore result in a loss of family housing in conflict with DP Policy BC4. It is also contrary to Policy CM1 of the Council's Core Strategy (CS) and LP Policies 3.3 and 3.8, which seek to ensure that community needs are met and a suitable choice of homes is provided.
10. The proposal also conflicts with Draft London Plan² (DLP) Policies GG4 and H9, which seek to ensure that identified housing needs are met and housing stock is best used. It conflicts with Policies DM2 and DM4 of the Council's emerging Local Plan³ (eLP) too, which seek to ensure that development meets local housing need and does not result in the loss of family housing.
11. The decision notice also refers to CS Policy CM2 and LP Policy 3.5 in respect of this main issue. However, these policies are not directly relevant as they relate to housing growth management and the quality and design of housing. Additionally, the Council refers to DLP Policies D4, H8, H10 and H12 and eLP Policy DM3. However, they are also not directly relevant as they relate to the delivery of good design, the replacement of existing housing at higher densities, housing size mix and supported and specialised accommodation.

¹ Technical housing standards – nationally described space standard

² The London Plan – Intend to Publish version

³ Barking and Dagenham's Draft Local Plan 2019-2034

Living conditions of the occupiers of neighbouring properties

12. The HMO would likely be occupied by unrelated adults, whereas a family would likely include people from varying age groups. I note that the property could be occupied by a relatively large family that could generate a degree of noise and disturbance. However, unrelated adults are more likely to have individual daily schedules, deliveries and visitors and less likely to undertake activities together than a family. It is also likely that there would be an increase in the number of comings and goings to and from the property and noise and disturbance would be generated by vehicles moving on and off the drive and parking near to it. Consequently, more noise and disturbance would be generated by the HMO.
13. The property is located within a residential estate in close proximity to neighbouring properties to its sides and rear. The occupiers of those properties would thus be sensitive to the noise and disturbance generated. Additionally, interested parties contend that the property is already occupied by unrelated individuals and this is harming the neighbours' living conditions. Furthermore, the Council has stated that the appeal property and 126 Halbutt Street already have HMO licences, which has not been contested. 124 Halbutt Street would therefore be located between 2 HMOs, which would compound the harm to the living conditions of its occupiers.
14. There is sufficient space to the front of the property for the storage of waste containers and no firm evidence has been put forward which suggests that waste storage would be mismanaged. I therefore have no reason to conclude that the neighbours' living conditions would be harmed by waste related issues.
15. The proposal would result in significant harm to the living conditions of the occupiers of the neighbouring properties in respect of noise and disturbance. It conflicts with DP Policy BP8 and LP Policies 7.1 and 7.15, which seek to protect quality of life and prevent noise and disturbance from causing significant harm to living conditions. It also conflicts with DLP Policies GG3 and D14 and eLP Policies DM4, DM11, DM25 and SP4, which set out similar objectives. The decision notice also refers to LP Policies 3.5, 7.4 and 7.6, DLP Policy GG1 and eLP Policy DM16; however, these are not directly relevant to quality of life and noise and disturbance matters.

Standard of accommodation

16. The Council contends that the living conditions of the occupiers of the HMO would be unsatisfactory on the basis that one of the bedrooms would be 0.1 square metres smaller than required by the Space Standards and no storage space would be provided. It is also put forward that one toilet and one shower room would be insufficient to meet the needs of the occupiers.
17. Whilst one of the bedrooms would be smaller than the requirement for bedrooms sizes set out by the Space Standards, 3 of them would be markedly in excess of it. It is clear from the drawings that there would also be space for storage within the communal areas without compromising the use of those areas. In addition, it is likely that the occupiers of the larger rooms would find it desirable to keep their personal items in their rooms as opposed to the communal areas.
18. I have not been referred to any specific standards regarding bathroom facilities in HMOs. In my view, the occupiers could organise themselves to use the

facilities to minimise conflicts, particularly as it is unlikely that they would all have the same daily schedules.

19. As a result of the size of one of the bedrooms, the proposal would not provide an appropriate standard of accommodation. It thus conflicts with LP Policy 3.5 and DLP Policy D6, which seek to ensure that the development provides for adequate standards of living. However, I attach limited weight to this matter given the limited extent of the shortfall against the Space Standards. The Council has also referred to eLP Policy DM3 in respect of this matter; however, it relates to specialist housing and thus is not relevant.

Other Matters

20. The DLP is at a final stage in its preparation; however, it is still subject to further modification. I therefore attach moderate weight to the identified policies. In addition, as the eLP has not been examined and is subject to change, its policies attract limited weight.
21. I note that the property is reasonably close to a range of services and facilities and the occupiers of the HMO would benefit from its location. However, this matter does not outweigh the harm I have identified. Moreover, a family would benefit from the property's location too.
22. I have no reason to find that the occupiers of the HMO would have limited involvement in the local community or that the property would not be managed appropriately. I also acknowledge that HMOs can operate to a high standard and be occupied by those who work. However, these matters do not outweigh the harm identified.
23. Interested parties have stated that the property is currently occupied by more than 6 unrelated individuals and the outbuilding in the rear garden is used as living accommodation. However, these are not matters for me to consider in the context of an appeal made under section 78 of the Town and Country Planning Act 1990.

Conclusion

24. The proposal conflicts with the development plan. There are no material considerations which indicate that a decision should be taken other than in accordance with the development plan.
25. For the above reasons, the appeal is dismissed.

Mark Philpott

INSPECTOR