
Appeal Decision

Site visit made on 13 October 2020

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2020

Appeal Ref: APP/V5570/W/20/3248898

9 Birnam Road, Islington, London N4 3LJ

- 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 Farjad Falhan against the decision of the Islington Borough Council.
 - The application Ref P2019/3218/FUL, dated 26 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is for an additional 04 HMOs and an extension to the loft and attic with provision of a dormer.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the appeal proposal on:
 1. The existing mix of housing within the Borough;
 2. The living conditions of future occupants, with specific reference to floor space and outlook;
 3. The living conditions of the occupants of adjacent residential properties, with specific reference to noise and disturbance; and
 4. The character and appearance of the area, with specific reference to the proposed rear roof extension.

Reasons

Housing Mix

3. The appeal site currently comprises a six bedroom House in Multiple Occupation (HMO) located within a mid-terraced dwelling of four storeys, including basement and attic. It therefore currently falls within Class C4 of the Use Classes Order¹, whereby a change of use to dwelling houses (Class C3) and vice versa, are permitted development, by virtue of Class L of Part 3 within Schedule 2 of the General Permitted Development Order².

¹ Town & Country Planning (Use Classes) Order 1987 (as amended)

² The Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5. The submitted floor plans identify a bedroom and bathroom on the existing lower ground floor, with a kitchen at landing level; a sitting room, dining room and en suite bedroom on the ground floor; two ensuite bedrooms and a further kitchen on the first floor; and two ensuite bedrooms and a store room on the second floor. The appeal site could therefore quite easily be occupied once more as a single self-contained family dwelling, which policy DM3.2 of Islington's Local Plan: Development Management Policies June 2013 (DMP) seeks to protect. With the use of a building as an HMO for greater than 6no rooms being sui generis, any change of use such as that proposed would, as a matter of principle, be unacceptable as it would give rise to the loss of existing larger housing. This position is supported by paragraph B. ii) of DMP policy DM3.9.
6. I acknowledge that the appeal site is not currently being used for family housing, however notwithstanding this, as highlighted above, it could easily change back to use class C3 without the requirement of an application for planning permission to be submitted to the Council. However once converted into an HMO for more than six persons, by virtue of the change of layout with ensuite rooms provided with kitchenette in each, the scope for the subject building to be utilised as a single dwelling house would be lost without a physical reversal of the conversion works.
7. I note that the Council has issued an HMO license in its capacity as Environmental Health Authority, but I would like to respectfully point out that just because the appellant did not agree with the Council's decision to refuse planning permission does not mean that it hadn't had regard to the development plan and all material considerations. It is clear that they assessed the proposal against relevant policies of the development plan and has not acted unreasonably.
8. Therefore, in summary on this issue, the proposal would give rise to the loss of an existing family sized dwelling house which would be detrimental to the existing mix of housing within the Borough and would be contrary to DMP policies DM3.2 and DM3.9 B ii) as described above.

Living Conditions – Future Occupiers

9. Notwithstanding the 'in principle' objection to the proposal there's clear disagreement between the parties as to whether the proposal would provide an adequate standard of accommodation for future occupiers of the development.
10. In respect of room sizes, DMP table 3.5 highlights that a single room with kitchen within an HMO should have a minimum size of 16 sqm whereas the undated Standards for Houses in Multiple Occupation put before me state this to be 12 sqm. The Council haven't provided any comment on these latter standards, therefore it is not clear to me which are the most up to date. Nevertheless the 16 sqm standard is contained within the adopted Development Plan with DMP policy DM3.9 section B iv) requiring HMOs to provide a good quality of accommodation within non self-contained units, consistent with the space standards set out in Table 3.5. Non self-contained units should have an exclusive use kitchen for each household and this policy is

further explained in DMP paragraph 3.103 which highlights that the Council's Environmental Health HMO licenses' minimum standards should be exceeded where possible. I therefore consider that 16 sqm is the appropriate bar that all such applications should be measured against.

11. The Council highlights that rooms 2, 3, 5, 6, 7 and 9 fall short of this requirement. It has not been made clear to me whether toilet and washing facilities should be included within the 16sqm minimum floor area, but from reviewing the Council's HMO standards, there is only a requirement to provide each letting with a wash hand basin. Notwithstanding this, it appears that the Council has taken into account the floor area of the shower rooms in their calculations and whilst I note that the aforementioned rooms that fall below the DMP standard, this is only slight. Further, I consider this shortfall would be mitigated by the fact that each future occupant would have their own dedicated WC and washing facilities, rather than having to share with other residents.
12. With regard to bedroom no 2, it would have a very limited outlook albeit through a glazed door in the rear elevation facing onto a flight of steps that lead to the rear garden. This would give rise to poor amenity for future occupants, in conflict with DMP policy D2.1 A. x).

Living Conditions – Neighbouring Residents

13. Quite clearly by increasing the number of rooms from 6no to 10no would intensify the use of the appeal site and one thing to bear in mind currently is that the internal layout of the building is relatively typical of that if it were occupied by one single household; and therefore it is highly probable that existing occupants would less intensively use their rooms as they would if kitchen and WC/washing facilities were all provided within one dedicated space.
14. The proposal would see additional HMO rooms created at first floor level and above, taking into account the overall general activity associated with those rooms intensified, and in the absence of an acoustic scheme, the proposal could give rise to unacceptable noise transmission through the party walls into the neighbouring dwellings. In addition, there would essentially be 10no households formed within the building, all with the potential for greater comings and goings with visitors, far more so than if the appeal building were occupied by a single family.
15. I note that the appellant stresses that the additional four HMOs would not cause a significant increase in noise and traffic in the area, but that has not been substantiated. Therefore on this matter I conclude that the proposal would give rise to an over intensified use of the premises that would likely harm the living conditions of the occupants of neighbouring properties through an increase in noise and general disturbance. The proposal is again in conflict with DMP policy DM2.1 and policy DM9 paragraph B. i) which only support the provision of new HMOs where they do not give rise to any adverse significant amenity impact on the surrounding neighbourhood, including consideration of noise and the impact of disturbance.

Character and Appearance

16. The rear elevation of the appeal site can be clearly viewed from Birnam Road from a point halfway along where it turns in a north westerly direction towards

Tollington Park. There exists a cat-slide roof running from the main ridge down to first floor ceiling height and whilst I note that some of these features within the terrace have been extended, many remain intact as originally constructed. I note the examples of roof extensions given by the appellant, but ultimately each case must be assessed on its own merits. Furthermore reference has been made to a certificate of lawfulness on the appeal site, although I have not been provided with plans for this, the stacked rear dormers form part of the proposal before me and therefore I have assessed them in forming my decision.

17. The Council's Urban Design Guide Supplementary Planning Document (January 2017) (SPD) stipulates that the roof line is an important factor contributing to the rhythm and uniformity of a residential terrace or street, with a typical terrace designed with a consistent height at the front and rear. It goes on to state that when considering the scope for roof extensions it is necessary to consider the particular terrace within which the host building sits, as well as the local context, and that successful proposals will be both sympathetic to the host building and harmonise with predominant roof line in the vicinity. An extension that projects significantly above or alters the prevailing roof line can often disrupt the characteristic rhythm/unity.
18. By reason of their overall design, scale and mass, the proposed roof extensions would form an incongruous feature that runs counter to the original architecture of the host dwelling and the terrace within which it finds itself situated. I consider this is in conflict with the SPD, in addition to DMP policy 2.1 which amongst other things requires all forms of development to be of high quality and respect and respond positively to existing buildings, streetscape and the wider context, including local architectural language and character.

Conclusion

19. Having regard to the above and all other matters raised, I conclude that the appeal be dismissed.

C J Tivey

INSPECTOR