



Appeal Decision

Site visit made on 13 October 2020

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2020

Appeal Ref: APP/B5480/C/20/3247361

25 Ramsay Gardens, Romford RM3 7NT

- 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 Ms Jaspal Kaur Singh against an enforcement notice issued by the Council of the London Borough of Havering (the LPA).
- The enforcement notice was issued on 17 January 2020.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of a dwellinghouse (Class C3) to a hostel use (Sui Generis).
- The requirements of the notice are:
 1. Cease the use of the dwellinghouse (Class C3) as a hostel use (Sui Generis).
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with a correction and variation in the terms set out below in the Formal Decision.

The Notice

1. The alleged breach of planning control is the material change of use of a dwellinghouse to a hostel use. However, a dwellinghouse is a use of land. The notice should reflect that it is a material change of use of the Land which is alleged to have occurred, not a material change of use of a dwellinghouse. As such I can correct the notice so that the alleged breach reads the material change of use of the land from a dwellinghouse (Class C3) to a hostel use (Sui Generis). I am satisfied the correction would not result in injustice to the appellant or the LPA.
2. Similarly, I will vary the requirement of the notice to cease the use of the Land as a hostel use, rather than cease the use of the dwellinghouse. I am satisfied the variation will not result in injustice to the appellant or the LPA.
3. The appellant suggests that the hostel use falls within Class C3b of the Town and Country Planning (Use Classes Order) 1987 (as amended) rather than a sui-generis use as alleged. However, in order to fall within Class C3b, the occupants would need to live together as a single household and receive care. The appellant indicates that is not the case here. I am satisfied therefore that the notice correctly reflects the alleged breach of planning control.

The appeal on ground (a)

Main Issues

4. The main issues are:

- the effect of the development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and,
- the effect of the development on the housing supply of the Borough.

Living Conditions

5. Policy DC4 of the Havering Core Strategy and Development Control Policies Development Plan Document 2008 (CS) states that where the conversion of a building residential use includes the provision of communal residential uses, the original property should be detached and well separated from neighbouring dwellings. In contrast, the appeal property adjoins 26 Ramsay Gardens and sits adjacent to the block of flats containing 19-24 Ramsay Gardens, with only a narrow gap separating the flank walls of the two.
6. Policy DC4 also states that the nature of the new use should not give rise to significantly greater levels of noise and disturbance to occupiers of nearby residential properties than a single family dwelling would. I note the use of the property as a family home could result in it being occupied by a similar number of persons to its use as a hostel. However, its use as a hostel results in it being occupied by people who are unrelated and therefore a greater number of households, in contrast to a single dwellinghouse where the occupants would live as a single household. There is therefore more likely to be a higher level of noise and disturbance arising as individuals come and go independently of one another for work, shopping or other everyday activities.
7. Moreover, given the lack of communal activity typically occurring between separate households, there is likely to be an increase in noise arising from multiple audio or visual media operating at any one time in a confined space. This is a particular concern since the property shares a party wall with No 26 and also because of the proximity to the windows in the side of the flats at No 19-24. It would also lead to the emission of noise through open windows or doors during summer months. Such noise levels are more likely to occur at times when neighbours would have greater expectations for peace and quiet than would be the case if the property was occupied by a single household.
8. Furthermore, with separate persons occupying the property as individuals, there is a much greater potential for several visitors to come to the property at any one time and increased potential for use of the garden. This results in the potential for greater noise and disturbance through voices, opening and closing of doors and vehicles, including from more visits by delivery vehicles than may be the case for a single household.
9. I note the comprehensive list of reported anti-social behaviour said to have occurred at the property. Whilst details of each incident is limited, I have no reason to believe such incidents have not occurred and the cumulative picture painted of those incidents supports the view that the hostel gives rise to a greater and more harmful level of comings and goings than would occur were the property in use as a single dwellinghouse. As a result, the evidence leads me to believe that the levels of noise and disturbance experienced by

neighbouring occupiers are likely to be of an increased level than would be typically be expected in a residential area, to the detriment of their living conditions.

10. I note the appellant indicates that occupants are provided with a copy of house rules and regulations which they have to sign and comply with throughout their stay and the compliance to house rules is closely monitored by staff. I also note that the appellant indicates an intention to provide additional surveillance and is willing to consider options such as hostel curfew to reduce noise and disturbance during odd hours. However, such measures would not overcome the increased levels of noise and disturbance that would arise simply from the daily activities and comings and goings of several individual households living in one property. Thus, I am not satisfied that suitably worded conditions would overcome the harm identified.
11. I conclude, therefore, that the development will have a harmful effect on the living conditions of neighbouring occupiers with particular regard to noise and disturbance. The development consequently conflicts with CS Policy DC4, as well as CS Policy DC5 which states that planning permission will only be granted for social service residential projects provided they do not result in unreasonable noise and disturbance.

Housing Supply

12. The appeal site comprises a two-storey, semi-detached property in a predominately residential area. The use involves the provision of short-term accommodation for persons who have been assessed to be suitable for independent living but require support with emergency housing to avoid homelessness whilst being supported through housing provision with the Council. Stays are said to be typically between 2 days and 6 weeks in length. The appellant indicates that no element of care is provided to residents. A member of staff manages the day to day running of the property. An induction is provided to each resident upon arrival, along with fire safety briefings and the house rules and regulations. These are said to be constantly monitored by the staff.
13. The Council indicates that the use of the property as a hostel has resulted in the loss of a residential dwelling. It is said that there is a chronic shortage of housing in the Borough and that this loss exacerbates the situation.
14. Policy DC1 of the CS states that planning permission resulting in the net loss of existing housing will only be granted in exceptional circumstances where: it involves the provision of essential community facilities, for example health and education, which are necessary to meet the specific needs of the community; or, the proposal is necessary to deliver mixed and balanced communities.
15. The appellant argues that the use remains substantially similar in form and function to a residential dwelling. However, even though a hostel could broadly be described as residential, case law¹ has established that a hostel is materially different to a hostel. Thus, the development results in the net loss of an existing dwelling.

¹ *Birmingham Corporation v MHLG & Habib Ullah* [1964] 1 QB 178 and *Panayi v SSE* [1985] JPL 783

16. There is no indication that the use provides essential community facilities in the context of Policy DC1. The question therefore is whether the development is necessary to deliver mixed and balanced communities.
17. The Council argues that the development actively goes against the Council's homelessness strategy. However, I have not been provided with the Council's homelessness strategy. In any event, the Council accept that often through no fault of their own, people need emergency accommodation to avoid becoming homeless. Moreover, it seems to me that in order to deliver mixed and balanced communities, it will be necessary to provide sufficient accommodation for people who are otherwise at risk of homelessness. There would be a significant imbalance if such accommodation were not provided and homelessness increased as a consequence.
18. The Council have not provided any substantive evidence which demonstrates why the facility on offer here would fail to meet the provision of accommodation which its homelessness strategy indicates is needed. There is, for example, no indication that the development will result in an over-provision of such accommodation.
19. To that end, whilst the development results in the loss of a family dwelling, it does provide accommodation for those who require support for emergency housing on a short-term basis. I am satisfied therefore, on the basis of the evidence before me, that the exceptional circumstances required by Policy DC1 occur here.
20. I conclude, therefore, that the development will not have an unduly harmful effect on the housing supply in the Borough. Whilst I note the loss of the dwelling conflicts with Policies CP1 of the CS which seeks to resist the loss of housing, it would comply with the exceptional circumstances set out in CS Policy DC1 and comply with the aim to create sustainable, attractive, mixed and balanced communities set out in CS Policy CP2.

Conclusions

21. Whilst I have found that the development will not unduly harm the supply of housing in the Borough, I have found that it will unduly harm the living conditions of neighbouring occupiers. That is the prevailing consideration in this instance.
22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

23. It is directed that the enforcement notice is corrected by:

- inserting the words "the Land from" between the words "of" and "a" in section 3 of the notice.

24. And varied by:

- inserting the word "Land" and deleting the words "dwellinghouse (class C3)" from section 5(1) of the notice.

25. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J Whitfield

INSPECTOR