



Appeal Decision

Site visit made on 1 December 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/W5780/W/20/3256158

122 Balfour Road, Ilford IG1 4JD

- 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 Zubair Seth (NAACS – Nationwide Accommodation Services) against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0577/20, dated 14 February 2020, was refused by notice dated 7 May 2020.
 - The development proposed is Change of use of the property from 6 persons HMO (C4) to 14 persons HMO (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for Change of use of the property from 6 persons HMO (C4) to 14 persons HMO (Sui Generis), at 122 Balfour Road, Ilford IG1 4JD, in accordance with the terms of the application, Ref 0577/20, dated 14 February 2020, and the plans 20105_099 (Existing Plans) and 20105_102 (Existing Elevations) submitted with it; subject to the conditions set out in the attached Schedule.

Procedural Matters

2. I have omitted superfluous details from the description of development given above which do not describe acts of development. My site visit confirmed that the appeal property is already in use as a house in multiple occupation (HMO) and I have therefore determined the appeal on a retrospective basis.

Main Issues

3. The main issues are whether the proposal would provide an appropriate location for a house in multiple occupation, having regard to:
 - the mix of housing in the area;
 - the character of the area and the living conditions of neighbouring residents, with respect to noise, general activity and traffic.

Reasons

Housing Mix and Location

4. Policy LP5 of the Redbridge Local Plan (March 2018) (the RLP) aims to secure a range of homes that will contribute to the creation of mixed, inclusive and sustainable communities by seeking all housing developments to provide a range of dwelling sizes and tenures particularly focusing on the provision of larger family sized homes (three bed plus).

5. Policy LP6 of the RLP states that conversion of 'larger homes' to Buildings in Multiple Residential Occupation (Sui Generis) (i.e. larger HMOs) will be supported where specific criteria are met. I note, and agree with, the reasoning of the Inspector in the appeal referred to me at *7 Wellington Road*¹ that Policy LP6 is specifically concerned with the change of use of 'larger homes', which in the context of the RLP means dwelling houses, and not properties in HMO use, as in this case. As such, I find that Policy LP6 is not applicable in this case.
6. This aside, I have had regard to the Council's evidence that Balfour Road is an 'established residential area'. It states that in the immediate row, only 3 of 17 dwellings have been converted to flats, and that along Balfour Road as a whole, only 46 properties have been converted to flats/HMOs out of 320, some 14%. The appellant contends there are more properties than this converted to flats. Nonetheless, the Council accepts that the lawful use of the appeal building is as a small HMO falling within the C4 Use Class, and not a single dwellinghouse. Therefore, there would be no net loss of family-sized accommodation as a result of the proposal.
7. In terms of location, the appeal site is within walking distance of facilities in Ilford Metropolitan Centre, and the site is indicated to have a high PTAL rating of 5. As such, it would represent an accessible location suitable for occupants of the HMO, who may be less likely to own a car and thus rely on public transport.
8. Moreover, the provision of a larger HMO providing a smaller, more affordable form of accommodation in an accessible location contributes to the overall aims of Policy LP5 to secure a range of sizes and tenures of homes that will contribute to the creation of mixed, inclusive and sustainable communities, subject to meeting other criteria relating to the effect on the character of the area and neighbours' living conditions.

Local character and neighbours' living conditions

9. The site is located on a primarily residential street which includes a barrier preventing through vehicular traffic. Whilst I observed levels of car and foot traffic to be low during my visit, the site is located near to the main Ilford town centre, and close to two local mosques and a busy primary school, which was a source of continuous playground noise at the time I visited. These community uses will regularly attract visitors at various times during the day, and there is likely to be a fairly regular level of noise, activity and traffic which would be expected by occupants of Balfour Road.
10. Given that the dwelling is already in HMO use, there is no loss of a single-family dwelling house and no change to the overall mix of residential uses within Balfour Road, nor is the overall character of the area undermined.
11. Physically, no changes are proposed to the property, but the Council argues that a large HMO is out of character with the surrounding single family housing stock and would cause unacceptable harm to the living conditions of the occupiers of neighbouring properties due to potential for there to be up to 14 occupants in 6 double rooms, or 16 occupants were the larger loft room to be subdivided. The consequence of this is increased activity, generating noise and disturbance, and more waste being produced and stored on site, in contrast

¹ APP/W5780/W/19/3241480

with the established character of the area. The appellant indicates the rooms are intended for occupation by 6 mothers and 8 children, with no indication of a proposed subdivision of the loft room.

12. In simple terms, 14 occupants living independently is likely to result in additional comings and goings compared to a 6-person HMO, and more refuse being produced. However, a greater number of occupants is not of itself evidence that a larger HMO use would cause material harm to neighbouring occupants or the character of the area. The way in which the building would be used and managed must be taken into account, such as where there are dependent children who would not add materially to comings and goings.
13. Ultimately, beyond reference to more occupants, the Council does not offer specific evidence of how harmful noise and disturbance would occur or translate to harm to neighbours' living conditions. I note parallels in the appeal at *7 Wellington Road*, in respect of a 16 person HMO. The appellant indicates that no complaints have been registered since the HMO came into use. Impacts associated with a HMO use, small or large, will naturally depend on the particular lifestyles of the occupants. In this case, the appellant is prepared to accept a planning condition limiting the occupation of the building to 6 adults and 8 children, commensurate with the form of accommodation presently provided. Such a mix of occupants is less likely to generate activity at unsociable hours or levels of noise that 14 adults may make.
14. On site, I observed the rooms to be relatively well laid out, but they were moderately-sized bedrooms at best. This makes them unsuitable, in my view, for double occupancy by adults, particularly as within an HMO they are not simply places to sleep, but also areas to store all of an occupant's belongings and spaces to relax, study or work in the absence of a living room. As such, occupancy of the rooms by two people would result in cramped and unsuitable living conditions, and would increase the potential for noise and disturbance within the building. For these reasons and based on the pattern of occupancy put forward by the appellant, I find that a condition limiting the maximum number of occupants to 6 adults and 8 children would be necessary to ensure that the layout of the building provides suitable living conditions for the occupants, and that the level of occupancy does not give rise to harm to neighbours' living conditions.
15. In addition, the Council acknowledges that the appellant has provided a Management Plan in response to requirements of Policy LP6. A separate Waste Management Plan has also been provided. These documents set out the duties of the building manager and occupants of the HMO, including with respect to anti-social behaviour and bad neighbourliness, and details of the means and location of waste and recycling facilities and how occupants will be made aware of collection schedules.
16. In reaching a view, I acknowledge another appeal referred to me where the Inspector found harm would be caused on neighbours' living conditions², and others³, including one of my own decisions, where no harm was identified in this matter. Ultimately, the effect on living conditions requires judgement based on the particular site-specific circumstances. Therefore, I do not draw

² APP/W5780/W/20/3246646

³ APP/W5780/W/19/3240935 and APP/W5780/W/20/3246103

conclusions from these other appeals, but have determined this appeal on its own merits.

17. Overall, The evidence before me does not suggest a pattern of excessive noise or disturbance based on the existing occupancy. I am not persuaded that the larger HMO use inevitably leads to harmful levels of noise and disturbance and I conclude that the use, if operated in accordance with a detailed management plan and limit on the number of occupants, does not result in unacceptable effects on neighbours' living conditions or local character. Therefore, there is no conflict with the requirements of Policy LP26 of the RLP that developments do not result in significant loss of character or amenity as a result of increased traffic, noise and/or general disturbance.

Conditions

18. The development would create a 6 bedroom HMO and I have found no planning harm would arise on the basis that these bedrooms are limited to single adult occupancy. To ensure this, a condition is necessary limiting occupation of the building to no more than six adults and eight children.
19. The Council has suggested conditions requiring the submission, approval and implementation of a refuse and recycling scheme and cycle storage on site. I consider cycle storage is necessary in the interest of encouraging sustainable transport. This condition includes a strict timetable for compliance because in granting permission retrospectively, it is not possible to use a negatively-worded condition to secure the approval and implementation of the waste and cycle parking details before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
20. The appellant has already provided a HMO Management Plan and Waste Management Plan, which satisfactorily address these issues. Therefore, a condition requiring compliance with these documents is sufficient, and further details do not need to be submitted.

Conclusion

21. The provision of a larger HMO would deliver a social benefit in providing lower cost accommodation for more occupants in an accessible location where occupants can avail of local services and facilities on foot or by public transport. The appeal scheme therefore accords with the overarching aims of Policy LP5.
22. Moreover, I have found there would be no loss of character to the surrounding area, nor material harm to the living conditions of neighbouring occupants. The proposal therefore accords with the development plan, taken as a whole, and there are no material considerations which justify a decision being taken other than in accordance with the development plan.
23. The appeal is therefore allowed.

K. Savage

INSPECTOR

SCHEDULE OF CONDITONS

- 1) The premises shall only be used as a House in Multiple Occupation for a maximum of 6 adults and 8 children under the age of eighteen at any time. No bedroom shall be occupied by more than 1 adult and 2 children at any time.
- 2) Unless within 3 months of the date of this decision a scheme for the provision of cycle parking spaces, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site as a House in Multiple Occupation (sui generis) 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.
 - a. If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site 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 approved by the local planning authority is implemented.
 - b. Upon implementation of the approved cycle parking scheme specified in this condition, that scheme shall thereafter be maintained.
 - c. 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.
- 3) The use hereby permitted shall not operate except in strict accordance with the HMO Management Plan (March 2020) and Waste Management Plan (March 2020), both by FPP Associates.