



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/20/3256723

8 The Drive, Cranbrook, Ilford IG1 3HT

- 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 Gorji against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0749/20, dated 3 March 2020, was refused by notice dated 1 May 2020.
 - The development proposed is change of use from single dwelling into House of Multiple Occupation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. 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 provides an appropriate mix of housing;
 - whether the proposal provides an acceptable standard of accommodation;
 - the effect of the proposal on the character of the area and living conditions of neighbouring occupants, and;
 - the effect of the proposal on the Epping Forest Special Area of Conservation.

Reasons

Housing Mix

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. The proposal does not accord with criterion a) of Policy LP6 as it is located outside of a Metropolitan, District or Local Centre as defined in the RLP.

6. The Council refers to the surroundings as 'an established residential area' with its intention being *'to protect dwellings for family occupation in residential neighbourhoods at lower densities as part of its strategy to provide a range of house types to meet the boroughs housing needs of different groups as identified in the Council's SHMA (2016).'* I am not provided with a copy of the SHMA to substantiate the Council's position in this respect. Read on their face, Policies LP5 and LP6 do not specifically refer to the retention of larger family dwellings, but seek to secure a range of homes, dwelling sizes and tenures, with the focus on the *'provision of larger homes'* (my emphasis). Nonetheless, I accept that the loss of a single dwellinghouse runs contrary to the aim of providing more family-sized accommodation.
7. Set against this loss is the fact that the proposal provides a large HMO use. I am not provided with details of the quantitative need for HMO housing in the Borough, though I note extracts from the Council's Housing Strategy April 2014 - March 2019 which reiterates the importance of HMOs to meeting housing needs for lower income groups, and that the Council will promote good quality HMOs. The supporting text of Policy LP6 refers to the important role that HMO housing provides in terms of lower cost housing, particularly to young professionals, to which the proposal could contribute. Moreover, given the general need for additional housing across London and the country, it is reasonable to think that there is demand for such accommodation in accessible locations. I note the Council accepts that the proposal does not lead to an overconcentration of HMO uses in the row.
8. In this case, whilst located outside of a defined centre, the appeal site is within easy walking distance of facilities in Ilford Metropolitan Centre and lies on a bus route with a stop immediately in front of the building, the site having a high PTAL rating of 5. In this respect, the proposal aligns with the supporting text of Policy LP6, which suggests HMOs are best located in areas with good public transport accessibility and close proximity to local shops and services.
9. Therefore, whilst there is a loss of a dwellinghouse, the provision of HMO accommodation accords with 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 of Policies LP5 and LP6 relating to the effect on the character of the area, neighbours' living conditions and the standard of accommodation.

Standard of accommodation

10. The living accommodation is laid out over two floors and at my site visit I saw the building to already be in use as a HMO, comprising a total of seven bedrooms (one an en-suite), two bathrooms, a large communal kitchen with three sets of units each with an oven, hob, sink, fridge and storage. There was also a dining table and multiple washing machines. With the exception of the smaller Bedroom 6, the bedrooms are generous in size and provide good amounts of living space for occupants.
11. The Council's Housing Design Supplementary Planning Document (SPD) (September 2019) sets out that large HMOs must provide a high-quality form

of accommodation in line with space standards set out in Appendix A. In the case of communal areas, the Council calculates a total of 47sqm would be required across kitchen, dining and living areas, with HMOs of three or more bedrooms expected to have two living spaces, i.e. a kitchen and living room.

12. In this case, the communal kitchen area measures some 30sqm, and I saw it to be a generous and well-appointed space capable of being used by several occupants at once and providing space to congregate outside of individual rooms. A dedicated living area would not be provided, leading to the shortfall against the Council's requirement. However, large HMOs are typically occupied by separate individuals or couples in each room who share facilities but do not live as a single household for which a communal living area would be essential. In this case, I am satisfied that the generous size of the bedrooms, together with the spacious kitchen facilities and the communal rear garden, would provide satisfactory facilities that would mitigate for the lack of a living room.
13. The Council accepts that the level of bathroom provision meets the relevant SPD standard and sufficient floor-to-ceiling heights and hallway widths would be provided throughout the building.
14. Taking an overall view, I conclude that the standard of accommodation is acceptable and it does not adversely affect the living conditions of occupants. Therefore, I find no conflict with Policy LP26 of the RLP, which requires developments to provide high standards of accommodation for housing in terms of size, quality and arrangement of internal space.

Neighbours' living conditions

15. The Council argues that the proposal would cause unacceptable harm to the living conditions of the occupiers of neighbouring properties due to the increase in the number of occupants from a maximum of 8, based on a four double bedroom dwelling, to 14 in 7 double rooms. However, the appellant has confirmed that Bedroom 6 is intended for single occupancy and maximum occupancy would be 13 people.
16. 13 occupants living independently is likely to give rise to additional comings and goings compared to a single family unit, which in most cases would be fewer than 8 people. I note the representation from the adjoining neighbour raising concerns about works at the site and potential noise and traffic impacts. However, a greater number of occupants is not of itself evidence that a HMO use would cause material harm to neighbouring occupants.
17. The site is located on a reasonably well-trafficked road close to the main Ilford town centre. As such, a level of general activity and traffic is to be expected by occupants. The appellant has confirmed that no on-site parking is provided, which lessens the amount of vehicular traffic associated with the HMO use. The lack of a communal living space, though criticised by the Council for other reasons, is also likely to lessen the extent to which occupants may congregate and potentially make noise which would disrupt neighbours.
18. The Council refers to criterion 2(c) of Policy LP6 which requires a management plan to be provided, with further criteria set out in the SPD. The appellant has provided a Management Plan and a Waste Management Plan which address several of the SPD requirements, including details of the means and location of waste and recycling facilities and how occupants will be made aware of

collection schedules. It also includes measures to inform occupants of their responsibilities in respect of noise, nuisance and anti-social behaviour; confirmation that no on-site parking is to be provided, that weekly cleaning and monthly external maintenance will be undertaken and gives contact details of the managing agent. Though not explicit in the Management Plan, I have no reason to doubt the appellant would deal with other matters set out in the SPD such as keeping records of complaints, pest control and preventing fly-tipping. I also note the Council's Refuse and Cleansing Department has raised no objection to the proposal.

19. Ultimately, beyond reference to more occupants, the Council does not offer any specific evidence of how harmful noise and disturbance would occur, and it accepts that a planning condition could secure a revised management plan incorporating any outstanding details.
20. Taking these considerations together, I am satisfied that the HMO use, if operated in accordance with a detailed management plan, does not result in unacceptable effects on neighbours' living conditions. Therefore, there is no conflict with the requirements of Policies LP6 and 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.

Effect on Epping Forest Special Area of Conservation

21. The appeal site falls within the 'Zone of Influence' for the Epping Forest Special Area of Conservation (SAC). The SAC is designated for the presence of several qualifying habitats - Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath; European dry heaths and Atlantic Beech forests on acid soils - and the presence of a qualifying species, the stag beetle (*Lucanus cervus*). The conservation objectives of the SAC are to ensure that the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the favourable conservation status of its qualifying features. As the competent authority at the appeal stage, I have a statutory duty to ensure that the integrity of this area is not harmed.
22. The Council has provided a copy of Interim Advice (IA) from Natural England on the emerging strategic approach relating to the SAC Mitigation Strategy, dated 20 September 2018. This sets out the approach to be followed in respect of avoidance and mitigation measures to address residential impacts of development on the integrity of the SAC.
23. The IA sets out that 75% of visitors to the SAC travel from within the 6.2km Zone of Influence (ZOI). It anticipates that new residential development within the ZOI constitutes a likely significant effect on the sensitive interest features of the SAC through increased recreational pressure, either when considered 'alone' or 'in combination'. The proposal would increase the number of occupants in the building. The effects of more residents, both on their own and in combination with other development projects, is such that the proposal is likely to have significant effects on protected habitats and species in the SAC.
24. To mitigate effects on the SAC, the IA sets out that for small scale development, which includes the appeal scheme, a financial contribution to strategic 'off-site' measures will be required, which would go toward funding measures set out within the costed Strategic Access Management Measures provided by the City of London Conservators of Epping Forest.

25. In this case, the appellant indicates they have made a direct payment to the Council towards SAC mitigation, though I have no evidence to confirm receipt of this payment. However, even if received, the absence of an appropriate mechanism, namely a planning obligation, means that this payment would not be adequately secured, and would not bind the Council to spend the contribution towards the delivery of the required mitigation measures. That is not to suggest that the Council may not spend the contribution appropriately, but I do not have any certainty as to how it would be used to mitigate the specific harm to the integrity of the SAC. I can envisage a situation where an authority determining a planning application which is also responsible for implementing the mitigation could satisfy itself that a sufficiently robust link exists between effect and mitigation. However, I am the competent authority under the Habitats Regulations (2017) in respect of this appeal and the evidence before me does not give me the required certainty.
26. Accordingly, in the absence of adequately secured mitigation measures, I cannot be certain that the proposal does not prejudice the integrity of the Epping Forest SAC. Therefore, the proposal conflicts with the requirements of the Habitats Regulations, and with the guidance of the National Planning Policy Framework (the Framework), which indicates the presumption in favour of sustainable development does not apply where the project is likely to have a significant effect on a habitats site, either alone or in combination with other projects. The Council's decision notice makes reference to Policies LP33 and LP38 of the RLP, however these relate to built heritage and trees and landscape, and are not directly applicable to the proposal.

Other Matters

27. The Council did not refuse the application in respect of design and external appearance, highway safety or parking, and on the evidence before me, I have no reason to reach different conclusions in these respects. However, these are neutral considerations weighing neither for nor against the proposal.

Planning Balance and Conclusion

28. The provision of a larger HMO would deliver a social benefit in providing lower cost accommodation for more occupants in an accessible location. This benefit would however carry only limited weight given the scale of the proposal and when compared to the benefits of a family-sized dwelling being provided in the alternative. Economic benefits from additional residents would be similarly limited in scale.
29. However, my finding that the proposal has the potential to adversely affect a site of nature conservation designation is a significant and decisive material consideration in this case which outweighs these benefits and, in accordance with Paragraph 11(d)(i) of the Framework, provides a clear reason for refusing the development proposed and means that the presumption in favour of sustainable development does not apply in this case.
30. For the reasons set out, the appeal is dismissed.

K Savage

INSPECTOR