

Appeal Decision

Site visit made on 28 January 2021

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2021

Appeal Ref: APP/Z5060/W/20/3245066

24 Naseby Road, Dagenham, RM10 7JP

- 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 Peter Alegeh, (Ald4n), against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 18/02139/FUL, dated 12 December 2018, was refused by notice dated 15 October 2019.
 - The development proposed is the change of use to an HMO.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. Firstly, the effect of the proposed change of use on the supply of housing in the area; secondly, the effect of the proposed change of use on the living conditions of future occupiers with respect to living space and facilities; and thirdly, the effect on the living conditions of neighbouring occupiers, including the character of the area and highway safety, with respect to traffic, parking, noise, refuse and disturbance.
 3. The appeal property is an end of terrace house which lies in a residential street characterised by similar terraced and semi-detached houses. It occupies a corner plot and is larger than many of its neighbours with four bedrooms on the first floor. The frontage has been paved to create parking for two vehicles and there is a garage to the rear, accessed from Glencoe Drive. The property appeared to be vacant at the time of my site visit. The dwelling is a short walk from local shops, including a Tesco Express, and a bus route on Oxlow Lane.
 4. Policy BC4 of the Borough Wide Development Policies Development Plan Document (DPD), 2011, resists the loss, including change of use, of housing with three bedrooms or more, citing a need to preserve and increase the stock of family housing. This policy was adopted before the National Planning Policy Framework (NPPF) was introduced in 2012 and before the London Plan was adopted in 2016. The NPPF not only supports the Government's objective of significantly boosting the supply of homes, it makes clear that the range of homes as well as the number is important in order to meet the needs of present and future generations. The NPPF does not therefore resist changes to existing housing stock where this would meet a demand for another form of residential accommodation in the area.
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5. The London Plan in Chapter 3 notes that although there is uncertainty as to precise figures not only is London's population expected to grow over time but household size is expected to fall slightly from 2.47 to 2.34 by 2036. Policy 3.8 expects that Londoners should have a genuine choice of homes that they can afford and which meet their requirements for different sizes and types of dwelling. Paragraph 3.55 recognises that shared accommodation and houses in multiple occupation (HMOs) are a strategically important part of London's housing offer, meeting distinct needs and reducing pressure on other elements of the housing stock. It goes on to advise that in considering proposals that might constrain this provision boroughs should take into account the strategic as well as local importance of HMOs. I therefore consider that the blanket restriction in Policy BC4 on the change of use of dwellings with three or more bedrooms is not in conformity with either the NPPF or the London Plan because it does not allow for a flexible approach. In consequence, this part of the policy is considered to be out of date and cannot be afforded full weight.
6. The Council does not provide any up to date evidence to show what the relative mix of market housing need is in the borough or that the current need for family housing would outweigh the need for low cost, 1 bed accommodation, including HMOs. Having regard to the NPPF and the London Plan, and in the absence of any evidence to show that there is a materially greater need for private family housing compared with shared accommodation, including HMOs, I find no reason, in principal, to resist the proposed change of use.
7. It is concluded on the first main issue that, notwithstanding the loss of a family dwelling, the proposed development would have no materially detrimental effect on housing supply in the area. Although there would be a conflict with DPD Policy BC4 material planning considerations indicate that this issue should be determined other than in accordance with that policy because it is inconsistent with more recent policy and guidance set out in the London Plan and the NPPF.
8. Turning to the living conditions of future occupiers of the dwelling, submitted drawings indicate that it would provide six bedrooms, a kitchen, dining room, lounge and one bathroom. Although a second bathroom is shown on the existing layout, the proposed layout shows the space as being incorporated into a bedroom. Policy BC4 expects internal space standards in HMOs to meet those set out in Policy BP6 of the DPD. However, the Council refers to more up to date standards set out in Policy 3.5 of the London Plan and the Technical Housing Standards – Nationally Described Space Standards (THS), 2015. Whilst these standards relate to new dwellings they provide useful guidance on acceptable minimum standards to which I have had regard.
9. The dwelling meets the gross internal floor area for a six bedroom dwelling set out in Table 3.3 of the London Plan and Table 1 of the THS and all bedrooms exceed the minimum floor space standard. However, no built in storage is shown and one bedroom on the first floor and a proposed bedroom on the ground floor fail to meet the minimum width standard of 2.15m for a single bedroom. In addition, I share the concern of the Council that the size, shape and layout of the communal areas would provide poor functionality and the provision of a single bathroom on the ground floor with no separate w.c. would be inadequate to serve the proposed HMO with six bedrooms.
10. The appellant suggests that a condition could be used to overcome the deficiencies but a condition requiring a materially different layout would

fundamentally alter the development proposed which goes beyond the scope of a condition.

11. It is concluded on the second main issue that the deficiencies in the internal layout of the proposed HMO would result in unacceptably poor standards of living space and facilities that would be materially detrimental to the living conditions of future occupiers. In consequence the proposed change of use would conflict with DPD Policy BC4, Policy 3.5 of the London Plan, the NPPF and the standards set out in the THS which, taken together, expect new development to create places that will provide a high standard of amenity for existing and future users and in particular provide adequately sized rooms and a convenient and efficient internal layout.
12. With respect to the living conditions of neighbours, including the character of the area and highway safety, the Council asserts that traffic, noise, general disturbance, refuse and parking requirements resulting from the proposed HMO would have an unacceptable impact on the amenity of neighbouring properties. No evidence is provided to support this. The appellant points out that the existing dwelling could accommodate a large family, a number of whom could be adults. Whilst there may be more comings and goings from six unrelated people it is not clear that this or the use of the property as an HMO would give rise to undue levels of traffic, noise or disturbance in Naseby Road which is a through route providing access to nearby shops and a bus route. Moreover, there is ample space within the curtilage of the property for the storage of refuse.
13. Turning to parking provision, I accept that on-street parking is limited but this is in part due to the number of dwellings that have off-street parking on the frontage. The appeal property has two parking spaces on the frontage with a potential space in the garage to the rear. This meets or potentially exceeds the maximum car parking standard of two spaces for dwellings of four bedrooms or more, set out in The London Plan and to which DPD Policy BR9 refers. In this accessible location and in the absence of any evidence to the contrary I am satisfied that this would be sufficient to serve the proposed HMO and that there would be no material increase in pressure for on-street parking.
14. It is concluded on the third issue that the proposed change of use would have no materially detrimental effect on the living conditions of neighbouring occupiers, including on the character of the area and highway safety, with respect to traffic, parking, noise, refuse or disturbance. In consequence, there would be no conflict with DPD Policies BC4, BR9 or BR10 or with the London Plan or the NPPF which, taken together, seek to create places with a high standard of amenity for existing and future users, resist any significant loss of character, provide safe and suitable access to the site and encourage modal shift away from the private car towards healthy and sustainable transport.
15. The appellant draws my attention to a number of examples where HMOs have been permitted in the area. However, whilst I have limit details of these it is clear from the evidence that they each provide adequately sized rooms, satisfactory bathroom facilities and a convenient layout. I do not therefore consider that they are readily comparable with the appeal proposal.
16. Notwithstanding my findings with regard to the principal of the development or the effect on the living conditions of neighbouring occupiers, these do not alter or outweigh my conclusions with regard to the harmful effect on the living

conditions of future occupiers due to the inadequate internal living spaces. For the reasons set out above and having regard to all other matters raised, including the provision of low cost housing for key and other low paid workers, I therefore conclude that the appeal should be dismissed.

KE Down

INSPECTOR