



Appeal Decision

Site visit made on 14 September 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 OCTOBER 2021

Appeal Ref: APP/U5930/W/21/3267938

70A Leybourne Road, Leytonstone E11 3BT

- 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 Miss Amber Linell against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 201668, dated 8 May 2020, was refused by notice dated 30 July 2020.
 - The development proposed is change of use from a single-family dwelling house (Use Class C3) to a House of Multiple Occupation (HMO) comprising 3 people and 3 rooms (Use Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in July 2021. The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the supply of family-sized dwellings in the Borough.
 - The effect of the proposed development on the availability of on-street parking and the use of sustainable modes of transport.

Reasons

Family-sized dwellings

4. The appeal site is within Leytonstone Ward, which is a 'Restricted Conversion' area where conversion of family dwellings into smaller units and Houses in Multiple Occupation (HMOs) is restricted. Furthermore, the Council has introduced an Article 4 Direction which removes the permitted development rights for a change from a use under Class C3 of the Town and Country Planning (Use Classes) Order 1987, as amended, to a use under Class C4. Any

proposal to convert the property into a small HMO falling within Use Class C4 would therefore require planning permission.

5. Policy CS2 of the Waltham Forest Local Plan Core Strategy 2012 (the Core Strategy) is a strategic policy which prioritises the need for larger homes and therefore resist the loss of any existing larger home (3 bedroom or more). Moreover, Strategic Objective 2 of Policy DM6 of the London Borough of Waltham Forest Local Plan Development Management Policies 2013 (the DMP) refers to the need for a supply of family housing and requiring a suitable housing mix within new development. Policy DM6 of the DMP states that the Council will not permit the conversion of large family homes to smaller units and Class C4 and Sui Generis HMOs where certain criteria apply. These policies are consistent with the Framework, which states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, families with children).
6. The appeal property consists of a mid-terrace upper floor flat situated over the first and second floors, comprising 3 bedrooms, living room, kitchen, and bathroom. The property does not have access to a garden, and I acknowledge that the upper floor position of the flat may not be desirable for some families with very young children. Nevertheless, the accommodation is of a size that is suitable for families, and at the time of my site visit I observed that the dwelling was occupied.
7. The information before me indicates that the original gross internal floor space of the appeal property is significantly less than 124sqm, which conflicts with paragraph A)i) of Policy DM6. Furthermore, it is located within a 'Restricted Dwelling Conversion, HMO and Building in Multiple Residential Occupation Ward', contrary to paragraph A)ii) of Policy DM6. There is no substantive evidence before me to show whether the proposal would result in the over concentration of conversions in one street, and I will consider parking later in this decision.
8. I appreciate that the proposed HMO would make a contribution to the housing needs of certain sectors of the community. The appellant has indicated the problems of letting the appeal property to a family and I accept that it may be easier for the appellant to let the appeal property as an HMO. Nevertheless, having regard to the gross internal floorspace of the appeal property and its location within an area where the conversion of dwellings into HMOs is restricted, I conclude that the proposed development would be contrary to Policy DM6 of the DMP, which seeks to protect the supply of family-sized housing. It would also be contrary to the strategic objectives in Policy CS2 of the Core Strategy, which seeks to resist the loss of any existing larger homes.
9. The Council has cited Policy CS13 of the Core Strategy in its decision notice, however this policy is not directly relevant to the above matter because it relates to health and well-being rather than the provision of family-sized accommodation.

Parking

10. The appeal site is located within a Controlled Parking Zone and I observed that there is limited off-street parking availability in the area, which results in high

demand for on-street parking. It is in an accessible location close to shops, services, and passenger transport facilities.

11. The proposal would be likely to increase the number of adults residing at the appeal property compared to the family dwelling, which would increase demand for on-street parking. As no off-street parking is included as part of the appeal scheme, the Council has indicated that any permission should be subject to an obligation that removes permit eligibility for all future occupiers.
12. An obligation was not completed during the course of the planning application, and one has not been submitted with this appeal. I do not consider this to be a matter capable of being addressed by a planning condition either in respect of securing the development as car free, or through the use of a negatively worded condition requiring the appellant to enter into a planning obligation to secure the development as permit-free. There is no evidence of exceptional circumstances for such an approach as required by the Planning Practice Guidance.
13. In the absence of a feasible means of securing the development as permit-free, I conclude that the proposal would harm the parking environment through the additional demand from the development, and it would not encourage the use of sustainable modes of transport. This would be contrary to Policy DM16 of the DMP, which seeks to effectively manage parking and to ensure the provision of safe and attractive parking facilities by encouraging car-free and car-capped development in locations that are highly accessible by public transport; are accessible to opportunities and services, and/or have high levels of parking stress.

Conclusion

14. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Osgathorp

INSPECTOR