The Planning Inspectorate

Appeal Decision

Site Visit made on 7 September 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 12 October 2021

Appeal Ref: APP/W5780/W/21/3269587
98 Felbrigge Road, Ilford IG3 9XJ

- 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 Ahmad Zein Elabdein against the decision of the Council of the London Borough of Redbridge.
- The application Ref 2366/20, dated 29 July 2020, was refused by notice dated 13 November 2020.
- The development proposed is change of use from a single dwelling house to a house of multiple occupation of more than 6 occupants.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have omitted superfluous details from the description of development given above which do not describe acts of development. The appeal is described as retrospective in nature. I saw on site that the building was laid out as a house in multiple occupation (HMO) and accorded with the floorplans submitted. I have therefore determined the appeal on a retrospective basis.

3. Since determination of the application, the new London Plan was adopted on 2 March 2021 and the revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the opportunity to comment on the relevance to their respective cases of these revisions to local and national policy.

Main Issues

4. The main issues are:

    - whether the development is suitably located and provides an appropriate mix of housing, in particular with respect to the loss of a larger family-sized dwelling;
    - the effect on the character of the area and on the living conditions of neighbouring residents;
    - whether the development provides satisfactory living conditions for occupants.

Reasons

Housing Mix

5. 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).

6. 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 under criterion 2, which cross-refers to several of the requirements under criterion 1.

7. Criterion 2(a) requires the gross floor area of the property to exceed 180 sqm. At 148 sqm[1], the appeal building would fall some way short of this requirement and would thus conflict with this criterion.

8. The Council states that the proposal could accord with criterion 1(d) (via criterion 2(b)) in terms of providing suitable car and cycle parking provision subject to recommended conditions. The appellant has also provided a Management Plan as required by criterion 2(c), the suitability of which I consider below.

9. The proposal would be located outside of a designated Metropolitan, District or Local Centre as required by criterion 1(a) (via criterion 2(b)). The Council suggests only 14 properties out of 156 in Felbrigge Road have obtained permission to convert to flats, the implication being that the road remains predominantly characterised by single dwellings and not HMOs, and the loss of a further dwelling would be harmful to this established character. However, 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 general aim of providing more family-sized accommodation.

10. 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, but by providing a different, lower cost form of accommodation to that which prevails on Felbrigge Road, the appeal scheme accords with the aims of Policy LP5 to secure a range of homes that will contribute to the creation of mixed, inclusive and sustainable communities. Despite the Council's concerns, the change of use at the appeal site still leaves over 90% of properties on Felbrigge Road in use as single dwellings. As such, there would not be an overconcentration of HMO uses within the street.

11. In terms of location, the appeal site is within 7-10 minutes walking distance of shopping and transport facilities at Seven Kings and Goodmayes, with several bus routes available on Green Lane around 200 metres to the south. Therefore, whilst not in a designated centre, the appeal scheme is located in an area with good public transport accessibility and proximity to local shops and services.

[1] Based on the appellant's plan at Appendix 2 of the House Of Multiple Occupation ("HMO") Management Plan and as stated on the application form

12. Therefore, whilst there is a loss of a dwellinghouse and the building is smaller than the size supported for conversion, I find that 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. However, overall compliance with the development plan is 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.

Character and neighbours' living conditions

13. The Council argues that the appeal scheme results in an increase in the number of occupants compared to a single family dwelling, with consequent adverse effects for neighbouring residents in terms of noise and disturbance from increased activity, comings and goings at different hours of the day and night and a greater amount of refuse being produced and bins on the property. The Council also refers to enforcement complaints received since the property has been in use as an HMO. I have also have regard to representations provided by immediate neighbours to the appeal site, who document several incidents of anti-social behaviour by previous tenants of the appeal property.

14. The submitted plans show the dwelling was formerly laid out as a large five-bedroom family home. Given the size of the bedrooms and amount of communal living space, it would have been capable of accommodating a family of at least six. The HMO use is for up to 9 occupants, which represents a material increase in the overall number of occupants compared to the dwelling layout.

15. I accept that 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. Impacts associated with an HMO use, small or large, will naturally depend on the particular lifestyles of the occupants. However, HMOs are generally occupied by individuals on a more transient basis than those residing in dwellings. Those individuals are likely to live more independently than those forming part of a family unit. Moreover, as most if not all tenants will be adults, there are likely to be more comings and goings than a family unit with children, particularly later in the evening.

16. In this case, representations have been submitted which point to a number of incidents within the past couple of years, including loud music, littering, hostile interactions and indiscriminate parking by tenants and visitors. I accept that the behaviour of a particular individual is difficult to predict, but the representations point to a pattern of behaviour which has not been resolved sufficiently quickly or satisfactorily in neighbours' view.

17. The appellant has provided a Management Plan, setting out measures such as providing robust contractual terms in tenancy agreements, advising tenants of their responsibilities and dealing with complaints through an escalating process. The appellant also indicates that a 24-hour number is available should tenants or the immediate neighbours to either side have concerns or emergencies. However, the management plan does not set out what may constitute anti-social behaviour, or what severity of incident, or number of incidents, would trigger the complaints process. Nor is it set out how swiftly matters raised would be dealt with.

18. I appreciate that compliance with the Management Plan could be secured by condition. However, the past incidents referred to me suggest any measures previously put in place have not been effective, and there is little evidence to suggest that this situation would improve, particularly as I am not satisfied that the Management Plan offers sufficiently robust measures to deal with behaviour issues arising in the future.

19. Though not raised by the Council, I note the comments of interested parties regarding parking problems caused by the HMO use. I observed Felbrigge Road to be heavily parked at the time of my visit in the mid-morning, when a number of residents were already likely to have left for work. Such was the prevalence of on-street parking that parts of the road were reduced to a single lane, requiring drivers to give way to oncoming traffic. Demand is likely to increase in the evening as people return home and park overnight.

20. The appeal site has a small forecourt capable of parking a single vehicle. The appellant states that only one tenant presently has a car, but as there were two vacant rooms at the time of my visit, it is possible that additional tenants may add to the number of cars being parked in and around the appeal site. Visitors would add further to this demand, whilst the independent lifestyles of the tenants would add to the number and frequency of deliveries to the property. I have no details of how car ownership would be addressed by the appellant were more than one tenant to be a car owner. Given my observations, and the incidents described by interested parties, there is a tangible risk of an increase in parking pressure that would lead to inconvenience to existing residents in trying to find parking, and increased noise and disturbance from visitors, deliveries and cars circling the area looking for spaces.

21. I note the Council's recommended condition requiring a scheme which would preclude future occupants from obtaining parking permits. However, the site is not located within a controlled parking zone, and I have no evidence to confirm that this situation is scheduled to change. As such, the condition would be ineffective in addressing parking pressure around the site itself and I do not regard it as a realistic form of mitigation for the harm identified.

22. For these reasons, I conclude that the appeal scheme results in harm to the character of the area and the living conditions of neighbouring occupants in terms of noise, disturbance and parking pressure. This conflicts with Policies LP5, LP6 and LP26 of the RLP, which together require development, among other things, to contribute to sustainable communities and to avoid adverse impacts on residential amenity.

Standard of Accommodation

23. The Council's concerns in this respect relate to the size of the communal living space and to the absence on submitted plans of windows to some rooms. The Council's Adopted Housing Design Guide Supplementary Planning Document (the HDG) (September 2019) sets out the requirements for HMOs. This includes minimum floorspace standards for communal parts of the building used for kitchen, dining and living spaces. The HDG indicates that for a 9-person HMO, a total of 39 sqm of living space is required, of which 11.5 sqm should be for the kitchen. The Council calculates a total of 24.66 sqm in this case, with the kitchen complying with the relevant standard at 15.56 sqm.

Consequently, there would be a shortfall of some 27% against the required standard.

24. Such a shortfall may not be a fatal drawback of a proposal, if the space otherwise is of high quality. I saw the kitchen to be well-appointed, with two of every appliance and ample cupboard space. However, the communal living space is a windowless area which forms a through route between the hall and kitchen and offers little as a space to gather and relax. I also saw no dedicated dining space, meaning that beyond cooking meals, occupants would most likely be required to eat, sleep, relax and store all of their belongings in their rooms. I saw a number of the bedrooms to be quite small, suitable only for single occupancy, but even then appeared cramped once occupants' personal belongings are stored. Therefore, whilst I recognise that HMOs are typically occupied by separate individuals who may share facilities but do not live as a single household, the combination of a lack of useable living space and the small size of a number of the bedrooms results in an unsatisfactory standard of accommodation.

25. On the second point, my site visit confirmed that all bedrooms have windows and provide adequate light and ventilation for occupants. However, two of the bedrooms at ground floor level have windows in the side elevation which face the boundary fence and neighbouring property and do not offer good outlook. This adds to my concern with the overall standard of these rooms.

26. In reaching a view, I accept that the property has a generous and well-maintained garden to which occupants would have access. However, this would be largely weather dependent and not a facility that would be useable on a regular basis during the winter months. As such, it would not compensate for the shortfall in communal living space indoors.

27. I am also aware that the building has an HMO licence for up to 9 occupants. However, the licencing regime is separate to the planning system and subject to different considerations. I have considered the proposal against the relevant planning policies and guidance put to me, and the fact that the proposal may be licenced under another regulatory process does not change my conclusions on this issue.

28. For these reasons, I conclude that the HMO layout fails to provide a suitable standard of accommodation for occupants, significantly harming their living conditions, in conflict with Policies LP26 and LP29 of the RLP which together require high quality design with high standards of accommodation for housing in terms of size, quality and arrangement of internal space.

Other Material Considerations

29. The appellant points out that the change of use of a dwellinghouse to a small HMO of 6 persons or less constitutes permitted development under the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), and they are willing to accept a condition limiting the occupancy of the HMO to 6 persons. However, I note brief reference in the Council's report to an Article IV Direction, further referred to at Paragraph 5.2.1 of the HDG, which was made in December 2018 and due to come into force in December 2019 that would remove the PD right in question. The appellant also gives the date of the change of use to a large HMO as 1 November 2018, which suggests the building was neither a dwelling house nor a small HMO at the time the

Direction was made, and I have no evidence, such as a lawful development certificate, that would confirm whether any fall-back position exists. On the evidence before me, it would appear that the PD right in question could not be invoked as a fall-back position, and I afford this limited weight.

30. This aside, I am not persuaded that a reduction to six occupants would overcome the harm identified, as it is unclear how the building would be laid out and whether there would still be a shortfall against the HDG standard in terms of communal floorspace. In the absence of a revised internal layout, the continued availability of nine bedrooms would also pose difficulty in terms of enforcing a limit of six residents. Moreover, my concerns with the management of the HMO and traffic generation would remain even if occupancy was limited to six. Therefore, I am not satisfied that such a condition would make the development acceptable in planning terms.

Conclusion

31. For the reasons set out, I conclude that the appeal scheme causes harm to the living conditions of neighbouring occupants and fails to provide a satisfactory standard of accommodation. As a result, there would be overall conflict with Policies LP5 and LP6 and the principle of the change of use from a dwelling to a large HMO is not therefore supported. This results in conflict with the development plan taken as a whole.

32. 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 considering that there would still be a social benefit in having the building remain as a family-sized dwelling. Economic benefits from additional residents would be similarly limited in scale.

33. The material considerations in this case do not indicate that permission should be forthcoming in spite of the conflict with the development plan. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR