



Appeal Decision

Site visit made on 18 November 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th December 2021

Appeal Ref: APP/Y5420/W/21/3268532

67 Rutland Gardens, London N4 1JW

- 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 Mrs Maria Economides against the decision of London Borough of Haringey.
 - The application Ref HGY/2020/1748, dated 19 June 2020, was refused by notice dated 21 September 2020.
 - The development proposed is a change of use from C3 (single family dwelling) to C4 (House in Multiple Occupation).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from C3 (single family dwelling) to C4 (House in Multiple Occupation) at 67 Rutland Gardens, London N4 1JW in accordance with the terms of the application, Ref HGY/2020/1748, dated 19 June 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Floor Plan no. A1.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as this is more precise.

Main Issue

3. The main issue is whether the proposed development would harm the supply of family housing within the Borough having regard to development plan policy.

Reasons

4. The appeal property is a two-storey middle of terrace dwelling. It is located in a predominantly residential area that is characterised by its long terraces of dwellings. It is situated in an area which is subject to an Article 4 Direction which restricts 'permitted development' rights to change the use of a dwellinghouse to an HMO. The appeal property is also located in an area designated as a Family Housing Protection Zone.
5. Policy DM17 of Haringey's Local Plan – Development Management DPD (2017) sets out the criteria which a proposal for the conversion of a larger home to a House in Multiple Occupation (HMO) is required to meet. Criteria a), upon

which the Council's case focuses, requires that in order for a proposed change of use to be acceptable, the gross original internal floor area (GIA) of the existing dwelling is greater than 120m². The Council's view is that the appeal property is less than 120m² whereas the appellant considers it is greater than 120m². The Council have not set out a case that the proposed development would be contrary to any of the other criteria in the Policy.

6. The appellant's evidence suggests errors in the Council's measurements of the GIA. These include omissions of small parts of the floor area and features such as chimney breasts, stairwells and voids over stairwells. As set out in the submitted RICS Code of Measuring Practice (2015), such features should be included in the calculation of the GIA. The measurements as shown on drawing number AJC-01453-02 show that the GIA of the property exceeds 120m², albeit by a small margin. Therefore, based on the evidence before me, that the GIA of the property exceeds 120m², it would comply with the relevant criteria of Policy DM17.
7. The Council's case refers to the loss of a family sized dwelling, although this is not explicitly one of the criteria of Policy DM17. Nevertheless, it is capable of being a material consideration of the case.
8. The property is situated within the Family Protection Housing Zone, where retaining sufficient supply of small family homes is a priority in order to maintain broad housing choice for the local population. The Council has failed to provide substantive evidence that the proposed development would lead to an over-concentration of HMOs. Accordingly, it has not been demonstrated that the development would result in harm from the unacceptable loss of family sized accommodation.
9. Either way, the supporting text of Policy DM17 at para 3.39 recognises that HMOs can reduce the availability of smaller family housing, for which there is significant need. It is taken as read that the threshold between a smaller family home and a larger home, is the 120m² referred to in the Policy. In this case, as the appeal property exceeds 120m² it would be a larger home, as opposed to smaller family home which the Policy seeks to protect.
10. There is disagreement between the parties over the relevance of Policy DM16 to the consideration of the proposed development. Although there is some interrelationship between Policy DM16 and DM17, including by reason of their protection against the loss of units of less than 120m², the Council accept that the appeal proposal is not a residential conversion, or subdivision, to smaller units. This being the case therefore, I do not consider it to have significant weight in the appeal proposal for a conversion of a larger home to an HMO for which Policy DM17 is applicable.
11. The reason for refusal also refers to Policy SP2 of the Haringey's Local Plan – Strategic Policies (2013) but this appears to be an overarching policy on overall housing provision within the Borough; density and standards; and provision for the renewal and improvement of housing estates, without specific reference to HMOs.
12. The proposed development therefore would not harm the supply of family housing within the Borough. It would comply with Policy DM17 of Haringey's Local Plan – Development Management DPD (2017) which sets out the criteria

which a proposal for the conversion of a larger home to a House in Multiple Occupation (HMO) should meet.

Other Matters

13. A number of objections have been received to the proposed development which I have considered in my decision. The Council had regard to the matters raised when making their decision on the application and other than those in relation to loss of family housing, did not constitute reasons for refusal. From the evidence before me, and my own observations, I have no reasons to form a different view.
14. Representations submitted refer to the impact of the development on the living conditions of surrounding residents in terms of noise and nuisance and parking, due to the behaviour of future occupants. There is no substantive evidence before me that the proposed development would have an unacceptable impact on the living conditions of surrounding residents or highway safety in relation to parking. Furthermore, these matters are not pertinent to the main issue.
15. Any financial motives of the appellant in relation to the proposed development is not a reason to dismiss the appeal.
16. It is implied that occupation of the HMO will be transient in nature, however there is no information to suggest that residents would not occupy the property for longer periods, becoming integrated within the local community.
17. The Council have submitted an appeal decision¹ where the main issue surrounded the provision of family sized dwellings. The property in that appeal was found to be below the 120m² threshold and thus would result in the loss of a smaller family dwelling and conflict with Policy DM17. For the reasons outlined above, this is not the case in the current appeal and therefore the decision is of limited weight. Either way, I have considered the appeal on its own individual planning merits.

Conditions

18. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plan for the avoidance of doubt and in the interests of certainty.

Conclusion

19. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR

¹ APP/Y5420/W/17/3187331