



Appeal Decision

Site visit made on 17 February 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10th March 2022

Appeal Ref: APP/Y5420/W/21/3273682

62 Arcadian Gardens, Wood Green, London N22 5AD

- 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 M Larijani (KIKS Group Ltd) against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/0570 dated 9 February 2021 was refused by notice dated 14 April 2021.
 - The development proposed is the change of use of property from a dwelling (C3 use) to a 9 person house in multiple occupation (sui generis use) and the construction of rear dormer extension.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mrs M Larijani (KIKS Group Ltd) against the London Borough of Haringey. This application is the subject of a separate decision.

Preliminary Matters

3. Previously saved Policies HSG6 & HSG11 of the Haringey Unitary Development Plan 2013 no longer form part of the development plan for decision making purposes. Both main parties are aware and have made comment accordingly. In addition, the Council do not appear to object to the design, size or location of the proposed dormer window, I have no reason to make a different conclusion.

Main Issues

4. The main issues are therefore the effect of the proposal on: (i) the living conditions of future occupiers; (ii) the living conditions of neighbouring occupiers, with particular regard to noise and disturbance; and (iii) the supply of family housing in the area.

Reasons

Living Conditions – Future Occupiers.

5. The site comprises a two storey end of terrace property in a residential area with similar terraced properties lining the street. These are a mix of both multiple occupancy and single family dwellings. The area is covered by an Article 4 Direction which removes permitted development rights for changes of use akin to the appeal scheme.

6. Policy DM17 of the Development Management DPD, July 2017 (DPD) states that, in areas with such a direction the conversion of larger homes to HMOs will only be permitted where they provide a high quality of accommodation. In this sense the Council has published the Standards for Houses in Multiple Occupation (SHMO).
7. The Council has raised concerns regarding the lack of kitchen and dining space, citing the SHMO space standards and its requirement for one kitchen to a maximum of three lettings. The appellant states the number of kitchens meets national standards, and I accept its position that there is no specific requirement for provision of a communal dining space. Nevertheless, there would be high demand for use of the kitchens in a house capable of occupation by nine individuals. Although unlikely all occupiers would use these spaces at the same time, from both my observations of the spaces and the drawings provided I do not consider the size of kitchens provided would be sufficient to comfortably accommodate the reasonable needs of a HMO of this size, particularly at peak meal times such as breakfast and dinner.
8. Bedrooms 2 and 3 of the proposal meet the Nationally Designated Space Standards. While Bedroom 2 does fall short of the SHMO, it would remain a sizeable room with adequate space for a single person. However, despite its size, the shape of Bedroom 3 would impact its useability. Due to the doors to the garden and en-suite, it is unclear how a bed could be comfortably accommodated in the space. Any configuration of furniture would be contrived and would limit the circulation space to the extent that it would be cramped and unable to adequately meet the daily needs of potential occupants.
9. With regards to the outdoor amenity space, this would be accessible to all occupiers from the ground floor kitchen. However, due to the presence of the outbuilding, it would be of a limited size. As such it would not comfortably support the reasonable requirements expected of such space for nine individuals, particularly given the lack of other communal living space proposed. This would compound the reliance on, and use of, the outdoor space. I note the availability of public open space nearby. However, this would not provide the privacy reasonably expected of amenity space and as such is not an adequate substitute for limited provision at the site.
10. I acknowledge the comments of the parties with regards to cycle and bin storage, and the requirement for these to be accommodated to the rear or side of the dwelling due to limited space to the front. While there remains a dispute between the parties as to the level of bin storage required, I consider that the presence of bins in these locations would further confine the availability of the already limited rear and side garden, impacting on the use and enjoyment of this amenity space by future occupiers.
11. The proposed development would therefore have an unacceptably adverse effect on the living conditions of potential occupiers. In this regard it would fail to accord with Policy DM12 and DM17 of the DPD, Policy SP2 of the LP and Policy D6 of the London Plan 2021, which seek to ensure adequate living conditions.

Living Conditions – Neighbouring Occupiers

12. Policy DM17 of the DPD further states that the conversion of larger homes to HMOs will only be permitted where they do not give rise to any significant adverse amenity impacts on the surrounding neighbourhood.
13. The proposal would be capable of occupation by nine individuals, such that there would inevitably be an increase in the number of comings and goings and associated activities when compared with a family home. While the size of the dwelling would accommodate a large family, it is unlikely that a single household would generate the same level and uncoordinated nature of activity as nine unrelated adults. Whereas a family unit would likely spend more time together, the proposal has the potential to result in numerous daily routines and separate activities in each of the bedrooms, particularly given the lack of communal space. This would significantly increase the noise generated and resultant disturbance experienced.
14. While there are other conversions within the street, the potential occupation level and high intensity residential use of the proposal would nonetheless have a significant impact in terms of noise and disturbance within its immediate vicinity. This would be to the detriment of the living conditions of neighbouring occupiers. In addition, a planning condition to manage the levels of activity within the HMO would be unlikely to be either reasonable nor enforceable.
15. The proposed development would therefore have an unacceptably adverse effect on the living conditions of neighbouring occupiers with regards to noise and disturbance. In this regard it would fail to accord with Policy DM12 and DM17 of the DPD, Policy SP2 of the LP and Policy D6 of the London Plan 2021, the aims of which I have set out.

Family Housing

16. Policy DM17 of the DPD further states at DM17(a) that the conversion of larger homes to HMOs will only be permitted where the gross internal floor space of the existing dwelling is greater than 120sqm. The parties agree the property meets this.
17. Reference has been made to Saved Policy HSG6 of the Haringey Unitary Development Plan 2013, which required that proposals would not result in more than 20% of a street being conversions such as HMOs or flats. While a previous appeal¹ acknowledged the aims of HSG6 were met by then draft Policy DM17, this specific 20% requirement does not form part of the DPD.
18. Nonetheless, it is clear the aims of Policy DM17 include seeking to avoid an overconcentration of HMOs in the area. I have been directed to a previous appeal decision² where the Inspector concluded the conversion rate on the street was greater than 20%. Although I would conclude a similar conversion rate from my observations on site, this does not distinguish between flats and HMOs, nor was this distinction clear from walking along Arcadian Gardens.
19. The parties disagree as to the number of HMOs present, and the comments of the appellant, Council and interested parties are noted in this regard. While reference has been made to Valuation Office Agency Council Tax records, copies of these have not been provided. The appellant has supplied a register showing 2 licensed HMOs in the street. The Council states this is out of date

¹ APP/Y5420/W/15/3140941

² APP/Y5420/W/15/3140941

and has provided correspondence showing 10 licensed HMOs, with applications for a further 7.

20. While no updated register has been submitted by the Council, assuming its figure of 17 HMOs is correct, I do not consider this to be an unreasonable amount given the number of properties in Arcadian Gardens. The introduction of one additional HMO as a result of the proposal would therefore not significantly impact the housing mix on the street, with the resultant ratio of HMOs present remaining modest. As such, on the evidence before me, the proposal would not result in an overconcentration of HMOs on the street and would not therefore lead to an unacceptable loss of family accommodation.
21. The supporting text to Policy DM17 recognises that HMOs can reduce the availability of smaller housing, for which there is a significant need. However, given that the appeal property meets the test of DM17A(a), it is reasonable to conclude that it is a larger home. Its conversion could not therefore reduce the availability of such smaller housing. Accordingly, I have no compelling evidence before me that the proposal would result in the unacceptable loss of a property or dwelling type that is lacking within the area, or for which there is a stated demand or protection in local policy.
22. The proposed development would not therefore have an adverse effect on the supply of family housing within the area. In this regard it would accord with Policy DM17A(a) of the DPD and Policy SP2 of the LP, which seek to ensure an appropriate housing mix.

Other Matters

23. The appellant has made reference to examples of other HMO development within the area granted permission by the Council, to which I have had regard. However, no evidence is before me on the internal layout of these schemes and I have limited information on the precise standard of accommodation provided or the surrounding context for each of these. In any event, each scheme should be dealt with on its own site specific merits.
24. The proposal would contribute to the housing mix by providing a HMO with accommodation for up to nine occupants in an established residential area with some shops and services nearby. However, I have concluded the accommodation provided would not be an adequate living space. The support for provision of additional homes does not outweigh the need for those homes to achieve a basic minimum standard of accommodation for its occupants.
25. Although proposed as car free, the Council and interested parties have concerns relating to on-street parking. I note that no parking survey has been provided as this is not a requirement of the development plan. Nevertheless, the site is in an area with a PTAL rating of 2 and at the time of my visit the street was heavily parked. While residents may not have cars, there would remain the possibility for visitors to travel to the site by private car and contribute to parking stress. This could compound the harms I have found.
26. The Council further refers to the requirement for a s106 agreement due to the car free nature of the proposal. However, limited information on this or the policy basis for this requirement is provided and since I am dismissing the appeal on other grounds, I have not pursued the completion of one.

Planning Balance and Conclusion

27. The Council has stated that its delivery of housing over the past three years is substantially below its housing target. Accordingly, as per paragraph 11(d) of the National Planning Policy Framework (the Framework), the policies which are most important for determining the application are out-of-date and the 'presumption in favour of sustainable development' as set out in Paragraph 11 and footnote 8 is engaged. This is unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
28. The proposal would contribute to housing within the area by providing accommodation for up to nine occupants. However, while every dwelling makes a contribution to housing supply and is therefore of benefit, set against a significant deficit in the Council's housing land supply the benefit of the proposal to this shortfall would be limited. While the proposal would not result in the unacceptable loss of a family dwelling within the area, this is an example of a lack of harm, which is a neutral matter.
29. Conversely, I have identified harm to the living conditions of both the future occupiers of the proposal and of neighbouring occupiers. These factors attract substantial weight against granting permission.
30. The benefits of the scheme are therefore limited and significantly outweighed by the harm. As such, in accordance with paragraph 11(d), the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework as a whole.
31. The presumption in favour of sustainable development does not therefore apply and material considerations do not justify a decision otherwise than in accordance with the development plan considered as a whole. The appeal should therefore be dismissed.

C Rafferty

INSPECTOR