



Appeal Decision

Site visit made on 5 April 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Appeal Ref: APP/Z5060/W/21/3288278

55 Ross Avenue, Dagenham RM8 1PU

- 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 Janet Bunday against the decision of the Council of the London Borough of Barking and Dagenham Council.
 - The application Ref 21/01293/FULL, dated 7 July 2021, was refused by notice dated 7 September 2021.
 - The development proposed is the change of use of the house to an HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form referred to works which had previously been approved and a change of use to a Class C4 House in Multiple Occupation (HMO). It is clear that the proposal is to change the use of the dwelling to a large HMO, which is a sui generis use. I have therefore taken the description used by the Council in its decision notice, and by the appellant in the appeal form, as it more accurately describes that for which permission is sought.
3. Two of the reasons for refusal refer to the Draft London Plan. However, the decision post-dates the adoption of the 2021 London Plan by several months. It is clear from the Appendix to the Officer Report that the relevant London Plan was the 2021 version. The appellant has not chosen to place any reliance or make any comments on any of the London Plan policies. As such, I do not consider that the appellant has been prejudiced by the Council's drafting error. I have considered the proposal in the light of the current London Plan.

Main Issues

4. The main issues are the effect of the proposed development on a) the provision of family sized accommodation; b) the living conditions of future residents with particular regard to the standard of accommodation; and c) the living conditions of neighbours with particular regard to noise and disturbance.

Reasons

Family Accommodation

5. The appeal site is an end of terrace property which was a three-bedroom house but is in the process of being extended to provide additional accommodation to the side, rear and attic space. The proposal is to use the property as a HMO.

6. Policies SP3 and DMH4 of the Barking and Dagenham Draft Local Plan (DLP) and Policy BC4 of the Barking and Dagenham Borough Wide Development Plan Policies Development Plan Document (DPD) recognise the pressure on the supply of housing and in particular on the existing stock of family sized accommodation. Thus, there is a general presumption against the loss of houses with three or more bedrooms.
7. Policy BC4 establishes criteria in assessing what are termed 'other proposals' for flat conversions or changes of uses to HMOs. The criterion includes but is not limited to, consideration of the number of other such uses; and changes to the character of the area. However, given the wording of the policy, it seems to me that these would not be applicable to proposals where there would be a loss of housing with three or more bedrooms. To conclude otherwise would be counter to the policy presumption of seeking to protect and retain such family sized accommodation.
8. The appellant suggests that HMOs can play a role in the provision of housing and that other development plan policies generally seek to ensure that the optimum use is made of sites and that a balance needs to be struck between housing, jobs and producing a mixed community. I also note that Policy H9 of the London Plan acknowledges the role HMOs can play in helping to meet local and strategic housing needs. However, Policy H9 makes clear that it is for individual Councils to establish the role HMOs should play in their area.
9. Thus, in contrast to the established need for, and clear policies in support of housing, and family sized housing in particular, I do not find the same level of policy support for the proposal. I also note that no evidence has been submitted which demonstrates that there is a demand for HMO accommodation or more importantly, that there is a lack of demand for family housing in the borough generally or in the local area specifically. Whilst the appellant points to the lack of non-family sized housing in the area as being a reason to allow the appeal, it could equally be said that this situation demonstrates the continued demand for family sized housing. Thus, I am satisfied that there is no basis on which to depart from the established policy position of seeking to protect houses with three or more bedrooms.
10. As such, the development would result in a loss of family sized accommodation in conflict with Policy H9 of the London Plan, Policies SP3 and DMH4 of the DLP, Policies BP10 and BC4 of the DPD and Policy CM1 of the Council's Core Strategy which, amongst other things, seek to ensure that identified housing needs are met and that family sized housing is preserved.

Living Conditions – Future Occupiers

11. Policies BP5 and BP6 of the DPD and Policy D6 of the London Plan set out internal and garden space standards. Whilst these standards relate to new dwellings, they provide useful guidance on acceptable minimum standards, and I have therefore had regard to them.
12. The proposal would provide eight bedrooms (two of which would be en-suite), a combined kitchen/ lounge and three shared bath/shower rooms. Although the Council raises concerns with regard to the size of bedrooms 5 and 6 were they to be used as double rooms, a condition could limit the overall occupancy to eight people and thereby ensure all bedrooms were single occupancy.

13. Whilst most of these rooms are of a size which would accommodate the basic needs of each occupant in terms of a bed and sufficient storage space, the configuration of bedroom 8 appears somewhat restricted. Its width, coupled with its layout would make it difficult to include a bed and other furniture/storage cupboard without blocking access to the window, the bed or the room itself. Even though the aggregate bedroom area, as set out in Policy BP6 might be achieved, it would not overcome the deficiencies of bedroom 8.
14. The communal area is said by the Council to provide 18m² of floorspace, which is significantly below the minimum set out in Policy BP6. Whilst the submitted floorplans only show an indicative layout, it appears that there is insufficient space to accommodate a reasonable amount of kitchen cupboards/equipment for 8 people. Even if this could be provided and acknowledging that not all occupants may necessarily use the space at the same time, it is nevertheless clear that the space would be extremely restricted for occupants wishing to cook, relax, socialise or simply move between any items of furniture.
15. The appellant does not dispute the floorspace figure quoted by the Council but considers the scheme to be acceptable as it would meet licensing requirements. However, this does not necessarily mean that the accommodation is acceptable in planning terms. Licensing is primarily a means of securing minimum standards whereas the planning system has wider responsibilities for ensuring that the quality of accommodation provides a good living environment for occupants throughout the lifetime of the development.
16. The rear garden is said to provide insufficient space to meet the requirements of Policy BP5. The appellant does not dispute this but notes that the space would nevertheless meet the other requirements of this policy. The amount of rear garden which would be available to serve the HMO is clearly limited although this is in part a result of the extensions which are currently under construction. It is not clear whether the existing outbuilding would be removed but from my observations of the garden, which were limited to views from the upper floor rear windows given the ongoing building works, it would appear there would be sufficient space to hang out washing or sit outside at a table and chairs.
17. However, as a result of the garden's limited size, any outside activity would be in close proximity to the window serving bedroom 3. This would be likely to either reduce the privacy the room's occupant would enjoy or necessitate keeping curtains or blinds permanently drawn. Neither option is likely to be particularly attractive given the room would be occupied by an adult. Whilst the garden would also be limited were the resulting building to be occupied by a family, it is unlikely that the rear ground floor room would be a bedroom. Even if it were used as a bedroom, the relationship between family members and unrelated individuals living in an HMO is likely to be very different. Thus, as an HMO, the limited size of the garden would undermine the standard of accommodation some occupants could reasonably expect to enjoy.
18. My overall conclusion is that the proposal would not offer satisfactory living conditions for future residents, having regard to the standard of accommodation that would be provided. It would therefore be contrary to Policy D6 of the London Plan and Policies BP5 and BP6 of the DPD which, amongst other things, set out a need for adequately sized rooms and garden spaces in order to secure appropriate standards of accommodation.

Living Conditions - Neighbours

19. The HMO would be likely to be occupied by 8 unrelated adults, who are more likely to have individual daily schedules, separate deliveries and visitors and thus are less likely to undertake activities together when compared to a family. Accordingly, whilst there could be more comings and goings which could generate more noise and disturbance than a family, I acknowledge that the enlarged dwelling could accommodate a large family, a number of whom could be adults. The appellant also suggests that an HMO licence provides a safeguard and could be revoked were there to be complaints about noise and disturbance.
20. Whilst Ross Avenue is not a main road, it is no doubt used to access Lamberhurst Road. Although my site visit only provides a snapshot of one weekday morning, the road was heavily parked and there were a series of comings and goings from pedestrians and vehicles from other properties. Thus, there is already a general level of activity and disturbance within the road but there is not an over concentration of HMOs or other uses in the area which might lead to some form of cumulative harm, were the proposal to proceed. Overall, there is no substantive evidence to suggest that any additional impact caused by the proposal would be more than modest or out of keeping with the area.
21. I observed that many properties along Ross Avenue stored their waste bins within the front garden area. There is nothing to suggest that there is insufficient space at the appeal site for this to also take place without the front garden being overcrowded with bins or that they would be mismanaged.
22. If I were minded to allow the appeal, and deemed it necessary, the appellant has indicated a willingness to accept a condition to provide details of noise attenuation for the property. Whilst it is not clear to me what standards should be sought or whether they could be achieved, given the lack of substantive evidence to demonstrate there would be harm to the living conditions of neighbours and my overall findings on the appeal, it is not a matter I need pursue further.
23. For the reasons given above, I do not find that the scheme would give rise to a significant impact on the living conditions of neighbours with particular regard to noise and disturbance. On this basis it would not therefore conflict with the general thrust of Policies DMD1, SP7 and DMSI3 of the DLP and Policies BP8 and BP11 of the DPD which, amongst other things, seek to protect existing residential amenity and avoid developments significantly harming local quality of life or character.

Other Matters

24. The appellant has suggested that the proposal offers alternative access to housing through a different tenure, which in turn can assist the area, particularly in terms of supporting local services and providing for a mixed community. I acknowledge that there are clearly some benefits this type of accommodation can offer, both to individual occupiers and the wider community. Furthermore, given the current need to provide housing, a HMO would have the positive attribute of being likely to provide accommodation to more than one household. Whilst some of the benefit would be offset by the

fact that a family would also support local services, the proposal would nevertheless attract modest weight in this regard.

25. The appellant points to the absence of traffic concerns and that there is nearby public open space which would be available for occupants to use. However, these factors would represent a lack of harm which would accordingly be neutral in any balance.

Conclusion

26. The proposal would not comply with the policies which seek to retain family sized accommodation and would provide poor living conditions for the HMO's occupants. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. The fact that I have found in the appellant's favour with regard to the effect of the proposal on the living conditions of neighbouring occupants and that the scheme does offer some modest benefits does not outweigh the harm I have identified and so does not alter my conclusion.
27. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR