



Appeal Decision

Site visit made on 22 March 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/B5480/W/21/3284443

36 Glebe Road, Rainham RM13 9LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr. & Mrs. Jit & Surinder Ghir against the Council of the London Borough of Havering.
 - The application Ref P0402.21, is dated 1 March 2021.
 - The development proposed is described as 'change of use from 6 person HMO (use Class C4) to 9 person HMO (sui generis) (retrospective)'.
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Decision

1. The appeal is dismissed and planning permission for the change of use from 6 person HMO (use Class C4) to 9 person HMO (sui generis), is refused.

Applications for Costs

2. An application for costs was made by Mr. & Mrs. Jit & Surinder Ghir against the Council of the London Borough of Havering. This application is the subject of a separate decision.

Preliminary Matters

3. Following the submission of this appeal against non-determination, the Council has clarified the position it would have taken on the application had it made a decision. This has informed the main issues of the appeal.

Main Issues

4. The main issues are a) whether the development has resulted in the unacceptable loss of family accommodation; b) the effect of the development on the living conditions of occupants, with particular regard to the standard of internal accommodation; c) the effect of the development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and d) whether or not the development causes parking stress and congestion in the interests of highway safety.

Reasons

Family Accommodation

5. Policy 8 of the Havering Local Plan (Local Plan) establishes key criteria against which proposals for Houses in Multiple Occupation (HMO) should be assessed. The Officer Report (OR) explains that one of the policy's objectives is to protect family housing and thus properties with an original floorspace of less than

120m² should not be converted to an HMO. Although the appeal property has been extended, the OR acknowledges that the original building was approximately 150m². On this basis, the proposal would meet criterion (i) of Policy 8 of the Local Plan.

6. The property is currently used as a Class C4 HMO and the original building was not of a size which the Council seeks to retain as family accommodation. Therefore, the proposal would not lead to the unacceptable loss of this type of protected accommodation. It would therefore accord with Policy 8 of the Local Plan insofar as it relates to the protection of family sized accommodation.

Living Conditions of Occupants

7. Policy 8 of the Local Plan also seeks, amongst other things, to ensure that properties meet the requirements of the East London HMO Guidance. This guidance seeks to establish various standards, including minimum room sizes and the basic provision of facilities, in order to ensure a reasonable standard of accommodation.
8. The Council has expressed concern that the internal accommodation would fall below these standards. In particular, it points to the head height in Bedroom 9 and the distance this bedroom is from the kitchen; the cooking facilities that are provided generally to occupants; and the lack of hand wash basins in the bedrooms.
9. Bedroom 9 occupies most of the attic space. It is lit by rooflights on either side and although there are sloping ceilings, the majority of the floorspace is more than sufficient for a person of average height. The room is large enough for the current occupant to have a sofa/TV area and a separate table and chairs as well as bed and wardrobes, without the room feeling cramped. It therefore provides light and spacious accommodation. The second-floor landing was arranged with additional storage as well as a toaster, kettle and fridge/freezer.
10. On the evidence before me, Bedroom 9 provides a reasonable standard of accommodation in terms of internal head height. Although it is more than a floor away from the kitchen, there is space in the kitchen for this occupant to sit and eat their meals if they so choose. However, given the space and facilities available for this particular occupant, they would not be unduly inconvenienced were they to choose not to eat in the kitchen.
11. The communal kitchen provides a built-in 5 ring hob and a separate double oven. The worktops have sufficient space to accommodate two microwaves and there is fridge/freezer provision within the kitchen and nearby utility room. The accommodation does not therefore appear likely to hamper occupants from being able to cook meals for themselves with relative ease.
12. For a property of over 5 occupants the HMO guidance requires at least 2 shared bath/shower rooms and a wash hand basin in each bedroom. The property has a bathroom on the first floor and a shower room on the ground floor. However, apart from Bedroom 8 on the first floor, which has en-suite facilities, none of the individual bedrooms have wash hand basins. Thus, even as a Class C4 HMO the property was already deficient in this regard. A 50% increase in occupancy would create additional pressures on the shared bathroom facilities. This would be significantly beyond the Council's guidance and to a level beyond what might be considered reasonable. There is no substantive evidence before me to

indicate that wash hand basins could not practicably be provided in some or all of the other bedrooms.

13. Whilst the number of bathrooms and wash hand basins is only set out in guidance, the document is specifically referenced and supported by Policy 8 of the Local Plan. In this particular context there is nothing to suggest that I should not attribute substantial weight to the guidance.
14. Accordingly, the standard of internal accommodation would harm the living conditions of occupants. It would therefore be contrary to Policy 8 of the Local Plan which, amongst other things, seeks to ensure that the requirements of the East London HMO guidance are met and that appropriate facilities are provided to occupants, thereby ensuring a reasonable standard of accommodation.

Living Conditions of Neighbours

15. The existing property is a detached dwelling, which has been subject to previous extensions, but none are proposed as part of the current appeal. It occupies a corner plot and has a reasonably sized rear garden. The Council makes particular reference to the noise and disturbance of the proposal on the adjoining properties, which would be 38 Glebe Road (No.38) to the side and 1a Surridge Close (No.1a) to the rear.
16. The increased occupancy is achieved by converting the two ground floor reception rooms to two bedrooms and the cinema room in the attic to a further bedroom. All these changes are away from the boundaries with both No.38 and No.1a. Thus, the use of these rooms as bedrooms is unlikely to affect these neighbours in terms of noise and disturbance.
17. In some respects, the loss of the communal rooms may reduce the incidence of socialising amongst occupants, and thus a potential source of noise and disturbance. Whilst increased occupancy will result in additional comings and goings there is no substantive evidence to indicate that this would directly lead to noise and disturbance which would be likely to affect neighbours.
18. The rear garden is mainly grassed and appeared to be geared more towards drying clothes and storing household waste, than as an area for outside dining or socialising. Nevertheless, it is not clear that 9 residents at the property would necessarily create significantly more noise or disturbance than if the property remained in a Class C4 use or were occupied by a single family. Indeed, a family occupying a house of this size could conceivably make greater use of the garden than 9 unconnected individuals living in the property.
19. The source of noise and disturbance can often be the result of individuals' behaviour and landlord management rather than the number of occupants. Whilst occupants and landlords can change over time, there is no evidence before me to suggest that there have previously been noise complaints or disturbances from the property. I note that a management plan is said to be in place for the HMO, which may account for the apparent absence of complaints. A planning condition to ensure the provision of, and compliance with, such a document would be possible were I minded to allow the appeal.
20. Accordingly, the proposal would not harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance. As such, it would accord with Policies 7 and 8 of the Local Plan which, amongst other things, seek to ensure proposals do not give rise to significantly greater levels of noise

and disturbance to occupiers of nearby residential properties than would a single family dwelling of equivalent size.

Parking Provision

21. The Council is concerned that the increased occupancy could lead to additional parking pressures in the area, if not suitably controlled. Most of the properties in the immediate vicinity appeared to have on-site parking provision. The appeal site similarly has provision for 3 or 4 cars to be parked on the hardstanding to the front of the property, with room for a further car to be parked on the hardstanding/access to the rear of the plot. There is also provision for on-street parking along Glebe Road and generally on the adjoining roads. Some parking is within marked bays that allow for vehicles to park partly on the public footway and thus avoid blocking the roads.
22. Whilst the OR references the concerns of neighbours' regarding parking provision and acknowledges that the area has a PTAL level of 1b, I observed that the on-street parking bays are not restricted to particular times of the day or to permit holders. At the time of my visit, which I recognise was only a snapshot of one weekday morning, there was plenty of availability of on-street parking. Accordingly, there is little substantive evidence before me to indicate that there are currently problems of parking stress and congestion or that the proposal would lead to or exacerbate existing parking stress and congestion.
23. The Council points to the lack of a mechanism to prevent occupants of the appeal property obtaining parking permits, which would overcome their concerns. However, as the appeal site does not appear to be within a controlled parking zone, there is no restriction against which any mechanism could bite.
24. Accordingly, there is no substantive evidence to demonstrate that the proposal would cause parking stress and congestion in the area. On this basis the proposal would accord with Policy 24 of the Local Plan. This Policy, amongst other things, seeks to ensure proposals provide sufficient levels of parking provision and do not cause harm to the surrounding area.

Other Matters

25. The appellants note there are a variety of property sizes and styles within the area, but no changes are proposed externally to the building. Nevertheless, it is said that the proposal would make an efficient use of the site. Furthermore, the appellants note that the property is within a low flood risk zone and located close to facilities and services, including bus stops. However, these factors would represent a lack of harm and so would be neutral in any balance.

Conclusion

26. Although the proposal has not led to the loss of protected family accommodation, is not detrimental to the living conditions of those living nearby, or prejudices local highway conditions, it is nevertheless detrimental to the living conditions of occupants of the building. It does not therefore accord with the development plan and there are no other material considerations worthy of sufficient weight that outweigh that finding. Therefore, for the reasons given, the appeal should not succeed.

Stewart Glassar
INSPECTOR