



Appeal Decision

Site visit made on 1 April 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/U5930/W/21/3285220

83A High Street, Walthamstow E17 7DB

- 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 M Khaliq against the decision of Waltham Forest London Borough Council.
 - The application Ref 211922, dated 17 June 2021, was refused by notice dated 2 September 2021.
 - The development proposed was originally described as 'conversion of upper floors into small HMO.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) whether the proposed change of use would accord with relevant development plan policies relating to the provision and mix of housing and ii) whether the proposal would provide acceptable standards of accommodation.

Reasons

Housing Provision and Mix

3. Policy CS2 of the Waltham Forest Local Plan Core Strategy (March 2012) (the CS) seeks to maximise the number of quality homes in the borough by, among other things, focusing delivery of new homes in key growth areas including Walthamstow town centre and making effective and efficient use of land by seeking to optimise housing densities. Policy CS13 seeks to create healthy and sustainable places and communities.
4. Policy DM5 of the Waltham Forest Development Management Policies Local Plan (October 2013) (the DMP) states that all housing developments should provide a range of dwelling sizes and tenures, particularly focusing on the provision of larger family sized homes (three bed plus) in line with the Council's preferred housing mix. It adds that the Council will generally not support development proposals containing only smaller one and two bed homes.
5. Policy DM6 addresses dwelling conversions and HMOs. It states that conversion of 'larger homes' to smaller self-contained homes, Houses in Multiple Occupation (C4) or Buildings in Multiple Residential Occupation (Sui Generis) (i.e. larger HMOs) will not be supported unless specific criteria are met.
6. The appeal relates to the first, second and third floors of the building, described by the appellant as a 5/6 bedroom maisonette. The submitted plans show the

provision of 5 units across the three floors, each of which would have its own bathroom and kitchen facilities. However, a HMO by its nature is expected to have shared facilities for cooking, washing or both. The only communal elements indicated are shared washing machines/dryers located on the first floor landing. Based on the plans before me, therefore, the proposal would not constitute a HMO, but five self-contained flats. I assess the proposal against the aforementioned policies on this basis.

7. Read on their face, Policies DM5 and DM6 do not specifically require the retention of larger family homes, but seek to secure a range of homes, dwelling sizes and tenures, with the focus on the '*provision* of larger homes' (my emphasis). Nonetheless, the loss of a larger unit runs contrary to the overall aims of the development plan to provide more family-sized accommodation within the overall housing mix.
8. The Council indicates that the appeal site is located within a Restricted Dwelling Conversion, HMO and Buildings in Multiple Residential Occupation Ward. Under Policy DM6, conversions of larger homes, whether to self-contained flats or HMOs, are not supported in such locations and the proposal would conflict with the development plan in this respect.
9. The appellant submits that there is no demand for a larger home in this location. Reasons given include the direct access from the street, the commercial character of the High Street and the lack of family amenities such as a suitable private external space. In support of his case, the appellant has provided letters from several local estate agents who refer to a lack of demand for family-sized accommodation in the High Street, citing the lack of garden space, the location above a commercial unit and the busy commercial nature of the area not being ideal for children. These letters further refer to high demand for smaller units from individuals and couples.
10. The supporting text of Policy DM6 sets out that the private rented sector has increased significantly in the Borough in recent years, facilitated by increased flat conversions of larger units, which has in turn led to a lower supply of larger homes, for which there remains steady demand, especially for affordable housing. It is further stated that a concentration of conversions and HMOs can have a detrimental effect on the character of an area due to increases in parking, noise, overcrowding and rubbish. The nature of HMOs also brings greater population churn and creates a more transient community, making it difficult to determine the number of people living in a particular area and what level of services need to be provided for them.
11. The justification for the Council's policy will have been based on evidence collected in the preparation of the plan. Whilst this may now be of some age, I have no evidence to suggest that the trends described are no longer occurring. Rather, I note that the Council reinforced its approach to protecting larger homes by introducing a borough-wide Article 4 Direction in January 2018 to remove the permitted development right to change from a dwellinghouse (Class C3) to a small HMO (Class C4).
12. I acknowledge that a large upper floor unit of 5/6 bedrooms within the heart of the town centre may not be as desirable for a large family as homes in other locations. However, neither can firm conclusions be drawn in this respect solely on its location and layout. The letters before me from the estate agents do not refer to any actual marketing of the property as a single unit. Nor have I clear

evidence of how long the unit has been vacant, how it was previously occupied or what other efforts have been made to secure new occupants. Consequently, I am not persuaded that there is no prospect of the unit being used again as a larger family home.

13. Moreover, whereas a small HMO under Class C4 with functional communal areas could operate without substantive alterations to the existing layout of the building, and so retain the possibility of a future return to a larger family-sized unit, the proposed internal works in this case would effectively preclude this and result in the permanent loss of a larger unit.
14. I accept that the evidence from both the Council and the appellant indicates there is strong demand for smaller units, and in this respect the proposal would make a contribution to the wider housing mix of the Borough, providing more homes in an accessible location where occupants could contribute directly to the local economy.
15. Given the location of the site within the town centre where levels of activity, noise and population density tend to be higher than in residential areas, the conversion of the site to flats would not lead to demonstrable harm in terms of noise, parking and rubbish, though this would be a neutral factor overall as this would be expected of all developments.
16. However, on the evidence before me, I find that the provision of flatted accommodation, though providing some benefits, would not outweigh the loss of a larger family home which is specifically resisted in this location and for which it has not been adequately demonstrated there is no demand. Therefore, overall, the proposal would not provide a suitable mix of housing and so would conflict with the housing strategy for the Borough as expressed through Policies CS2, CS13, DM5 and DM6.

Standard of Accommodation

17. Five self-contained units would be created. Of these, Rooms 2, 4 and 5 are shown as typical studio units, with a single, open plan layout containing the cooking, sleeping and living areas, and an enclosed shower room. Rooms 1 and 3 are more akin to one-bedroom flats as the bedrooms are largely separated from the living/kitchen areas by the bathroom. However, no internal doors are shown physically separating the spaces, and therefore I have also treated them as studio units for the purposes of assessing the standard of accommodation.
18. The Council's Urban Design Supplementary Planning Document (February 2010) sets out minimum internal floorspace standards for new development. Single occupancy flats are required to be 37sqm in area. These standards have been superseded by those of the nationally described space standards¹ which have been incorporated into the London Plan (March 2021), but the standard for a single person flat with a shower room remains 37sqm. The units would range between 22sqm and 31sqm, and so would all fall short of the required floorspace. Whilst Rooms 1 and 3 would be the largest units, their effective separation of the bedrooms would result in a less flexible space compared to the open plan layout of a typical studio flat.
19. The appellant points out that following the Covid-19 pandemic, those seeking accommodation prefer to live separately rather than in a shared environment.

¹ Technical Housing Standards - nationally described space standards (2015)

The appellant presents unsubstantiated figures which suggest a steep fall in rental levels and increase in people changing living arrangements. However, these trends could be due to any number of factors in combination, not solely the pandemic. Moreover, effects wrought by the pandemic are not yet known to be permanent, and may change again as the country returns to normality.

20. Irrespective of this, the proposed units would still fall well short of the required floorspace. I accept shortfalls against these standards are not in themselves justification for refusing permission; however, given the need to accommodate cooking, sleeping and living areas, the shortfalls would almost certainly come at the expense of storage and circulation space. As a result, once furnished, the flats would have confined layouts with little discernible separation between areas and limited room to comfortably move about the spaces. This would result in cramped and oppressive living conditions for future occupants.
21. The Council in its assessment had regard to space standards set out under Policy DM6 and Tables 7.1 and 7.2 of the DMP which relate to HMOs, including requirements for communal living/kitchen/dining areas. Given my view that the proposed units are self-contained flats, such requirements would not be applicable. However, even if they were considered as HMO units, the lack of proposed communal space would mean further conflict with Policy DM6.
22. The Council also points to the possibility of double occupancy of each unit, if the floorspace was regarded as wholly part of a 'bedroom'. Studio flats are expected to be single occupancy, and I agree with the Council that two occupants would exacerbate already cramped conditions and result in an overcrowded development. However, were the appeal to be allowed, it would be possible to attach a condition limiting the number of occupants of each unit.
23. This notwithstanding, I find that the shortfall in floorspace of each flat would result in an unacceptable standard of accommodation for future occupants. Therefore, I find conflict with Policies CS2 and CS13 of the CS and Policies DM5 and DM6 of the DMP, which together seek to provide quality homes in the Borough and to create healthy and sustainable places by ensuring satisfactory amenities are provided for future and surrounding occupiers.

Other Matters

24. The Council did not oppose the application in respect of other matters including provision of cycle and waste storage. An absence of harm in these respects would however be a neutral consideration in the planning balance.
25. I also note that the Council would have sought a car-free development were permission to be granted. I have no details before me in respect of this matter, but given my conclusions on the main issue, this would no longer be a determinative matter and it is not necessary for me to consider it further.

Conclusion

26. For the reasons set out, I conclude that the proposal would conflict with the development plan, taken as a whole. Material considerations in this case do not indicate that permission should be forthcoming in spite of this conflict. Therefore, the appeal should be dismissed.

K Savage INSPECTOR