
Appeal Decision

Site visit made on 13 April 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2022

Appeal Ref: APP/B5480/W/21/3280840

19 Fitzilian Avenue, Romford, RM3 0QS

- 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 Golden Key Support Ltd against the decision of Havering London Borough Council.
 - The application Ref. P0008.21 dated 29 December 2020, was refused by notice dated 30 March 2021.
 - The development proposed is a change of use to Sui Generis for a large HMO for up to 10 people involving internal alterations to allow for the creation of 3 additional bedrooms, addition of cycle storage, and parking space.
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Decision

1. The appeal is dismissed

Preliminary matters

2. The council's decision notice in this case made reference to policies of the Core Strategy and Development Control Policies Development Plan Document Adopted 2008 which have now been superseded. Havering Local Plan (2016-2031) was adopted on 17 November 2021. There are 9 new policies now referred to by the council, of which I consider Policy 8 'Houses in Multiple Occupation' to be the most relevant. Since these are the up-to-date development plan policies, it is appropriate that I consider the appeal against, in particular, Policy 8.

Main Issues

3. The main issues in this case are: i) The acceptability of the proposed use in respect of increased activity, noise and disturbance on the local character of the area and the living conditions of adjoining and nearby occupiers; and ii) the effect on highway safety and residential amenity arising from the car parking capacity proposed.

Reasons

Background

4. The application site lies on the northern side of Fitzilian Avenue and is a two storey detached dwelling, with accommodation in the roof. It has been enlarged over the years by a single storey rear extension and a large dormer in the roof at the rear. The surrounding area is a mix of residential properties, mainly semi-detached and detached family dwellings. One hundred metres of

so to the west, Fitzilian Avenue becomes Oak Road. In this vicinity the development mix includes purpose built flats and commercial premises.

5. The change of use to a large HMO for up to 10 people involves internal alterations to allow for the creation of 3 additional bedrooms, addition of cycle storage and car parking space. The site is currently used as a House in Multiple Occupation (HMO) licenced for up to 5 occupants. The external appearance and the gross internal floor area of the existing property would remain unchanged. The appellant points out that currently the property is in a poor state of repair, the proposal would significantly improve the current standard of residential accommodation and is the only viable option for a property in this state of disrepair.
6. The present accommodation, as shown on the existing floor plans, comprises on the ground floor, a living room, a family room, a kitchen, landlord's private room, and 2 guest rooms in the rear extension, each with a toilet and shower. On the first floor there are 4 bedrooms, a bathroom and a toilet/shower. Within the dormer/roof space, there are 2 bedrooms, each with a toilet and shower. In addition, but not part of the application, there is an outbuilding in the rear garden that is shown to have a living room with kitchenette and toilet/shower on the ground floor and a bedroom at first floor level.
7. The proposed floor plans show essentially the same rooms. The first and second floor rooms would be unchanged, save for toilet/shower rooms being inserted into the bedrooms at first floor level. The ground floor would be unchanged, but the living room, family room, and landlord's private room would become a reception room, dining/reception and bedroom respectively, whilst the guest rooms in the extension would become HMO bedrooms, each with the addition of a kitchenette.
8. When consulted on the planning application, the council's Private Sector Housing Team confirmed that the premises is a licenced HMO, with kitchen facilities only adequate for 5 occupiers sharing. That team also commented that *"The plans do not show any proposed additions to cooking facilities and therefore on that basis the proposal should be refused"*, but that seems to ignore the proposed kitchenettes in the ground floor extension and the second floor.

The acceptability of the proposed use in respect of increased activity, noise and disturbance on the local character of the area and the living conditions of adjoining and nearby occupiers

9. The planning officer's report accepts that the proposal would meet the minimum internal space standards for the number of occupiers that are proposed, and that the reasonably large back garden would likely meet their outdoor amenity needs. Thus it is that the first issue concerns the effects of the proposal on the local character of the area and the living conditions of adjoining and nearby occupiers.
10. As I have mention in paragraph 2 above, the council has adopted a new local Plan, with Policy 8 being the most relevant. This policy has 7 criteria. The council accepts that criteria i (minimum floor area), ii (limit on percentage of HMOs), and v (adequate refuse storage), are met. It has a degree of reservation about criterion vi (communal space) in terms of the adequacy of outdoor amenity space and how it would be divided and used, and considers

that criteria iii (effect on surrounding area), iv (parking) and vii (compliance with East London HMO guidance) are not met. Parking comes within my second issue, so that this issue primarily relates to compliance with Policy 8 criteria iii, vi and vii.

11. Policy 8 states that *"The Council will support applications for HMOs where it can be demonstrated that:"* Criterion iii. reads *"The proposal does not have an adverse impact on the surrounding area and will not be likely to 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"*.
12. The appeal proposal is for up to 10 occupants within the 9 bedrooms. In space terms, all bedrooms but 1 are big enough to be double bedrooms, so that up to 17 people could be accommodated. Whilst any permission could be conditioned to no more than 10 occupants, that could be difficult to monitor and enforce. Be that as it may, on the basis of an HMO for up to 10 residents there would inevitably be more comings and goings; and in addition there is the separate single bedroom self-contained unit in the rear garden which remains outside this proposal. This would bring the total number of on-site residents up to 12. Whilst the occupiers can be expected to show consideration for neighbours, such an increase in activity is likely to bring a change in appearance, noise and disturbance. The change in appearance would likely occur through additional cars, the number of bins on collection days, etc; whilst the noise and disturbance could occur due to numbers of occupants, and could be most acutely experienced at the rear, in neighbouring private gardens. Therefore this criterion is not met.
13. Criterion vi is: *"The property contains communal space, including either a dining or living area, large enough for all the dwelling's occupants to use simultaneously."* The officer's report concludes that *"Overall, the proposal would meet the minimum internal space standards for the number of occupiers proposed to live at the property"*. This conclusion was reached having considered the number and size of bedrooms, the kitchen facilities and the outdoor space. The objection that is suggested in the council's appeal statement merely refers to the fact, as the officer's report noted, that it is not clear how the external amenity space is divided and who would have access to it. However, the officer's report had addressed the matter in some detail, with no indication that there would be harm (for the proposed occupants), indeed, remarking that the large rear garden would likely have sufficient space for the outdoor amenity needs of the property. Thus I do not give weight to this late point.
14. Criterion vii is: *"The proposal meets the requirements of the East London HMO guidance."* Again, rather like the criterion vi issue, the council's appeal statement claims that the property would not meet all the requirements of the East London HMO guidance, relying on the officer's report. This, in spite of the fact that the officer's report covers the requirements in this guidance, concluded that the proposal would meet internal space standards, and the only possible issue was contained in the remark about the external amenity space, with the conclusion that I have reported in paragraph 13 above.
15. No additional point is made, other than to refer to the "proposed conversion of the outbuilding" and that it would fall to be considered as a C3 use, not a 'sui generis' use of the HMO. But the appeal application does not cover the

existence of the outbuilding and does not seek planning permission for it. I do not know what the planning status of this building is, but the officer clearly had regard to its presence when assessing the proposal against the various criteria. I note that, under 'relevant history', the officer's report refers to the decision on an application for a Certificate of Lawfulness for the use of the Outbuilding ancillary to the main dwelling that planning permission is required – that decision taken on 30 April 2015.

The effect on highway safety and residents amenity arising from the car parking capacity proposed

16. The appellant considers that the appeal site is in a very sustainable urban location, within close proximity to local services and it is noted that the site is within walking distance to Harold Wood train station and 5 minutes' walk from regular routes for buses 256, 294, 347, 497 and 656 enabling immediate access to local centres. The development proposes on-site parking for 3 cars, and suggests that cars can be parked on the street with the exception of 10:30 am - 11:30 am for which a permit can be requested. The appellant expresses the intention to encourage sustainable travel by providing nine bicycle spaces on site, in line with promoting the reduction of carbon in the environment.
17. However, the officer's report states that the site has a PTAL rating of 2, which means that it has an average to poor access to public transport and would likely have some reliance on car use and therefore the need for car parking. The report also points out that there are two types of local parking restrictions in Fitzilian Avenue, including areas marked for 'resident permit holders only (Monday - Friday 8am-6.30pm) directly in front of No.19 Fitzilian Avenue, and another restriction along most of the street as 'No waiting Mon-Fri 10.30am-11.30am'. the report concludes that, with these restrictions in place, there is an added reason for providing sufficient on-site car parking at the property.
18. Policy 8, criterion iv, states (the application will be supported where it can be demonstrated that) the proposal meets Havering's parking requirements and it will not have an unacceptable impact on parking conditions and traffic congestion in the area. The standard for car parking in respect of HMOs referred to is that 5 car parking spaces are expected. Clearly the proposed 3 spaces falls short of this number.
19. Furthermore, there are a number of steps leading up to the front door which would prevent a car from entering at one end of the front curtilage and exiting at the other end. The proposed plan of the layout indicates that such a manoeuvre is intended. The entrance steps cannot be removed, since it would otherwise be effectively impossible to access the house. I therefore conclude that the proposed car arrangements would not be practical. Not do I consider that the use of the 2 spaces by reversing in or out at each end of the curtilage would be satisfactory.
20. In terms of restricting occupiers of the HMO from eligibility for on-street parking permits, it is clear that a legal agreement would be required for such a restriction, and no such agreement has been entered into. Therefore, I consider that the proposed development would result in unacceptable overspill of car parking onto the adjoining roads, which would be contrary to highway safety and residents amenity due to insufficient on-site parking provision. Criterion iv is not met.

Conclusions

21. As the preamble to Policy 8 points out, *"the Council recognises that Houses in Multiple Occupation (HMOs) can make a valuable contribution to the private rented sector by catering for the housing needs of specific groups. This needs to be balanced with the potential harm that can arise from such development if they are not subject to control"*. The reasoned justification for Policy 8 also includes the statement that *"The Outer North East London SHMA identified a need for three bedroom properties in the borough, meaning the conversion of small family homes to HMOs would have a particularly negative impact on the supply of family housing."*
22. In the present case I have found that the proposed use would bring increased activity, noise and disturbance, which would have a harmful effect on the local character of the area and the living conditions of adjoining and nearby occupiers (paragraph 12 above). In addition, the car parking spaces proposed for the development are unsatisfactory and insufficient in numbers, such that it would be likely that the proposal would affect highway safety and residential amenity through overspill of cars parked in the surrounding area (paragraph 20 above). Whilst the proposed change of use would meet a number of the other criteria of LP21 Policy 8, the shortcomings that I have identified outweigh the benefit of the contribution that HMOs make to the private rented sector. The appeal will therefore be dismissed.

Terrence Kemmann-Lane

INSPECTOR