
Appeal Decision

Site visit made on 19 April 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2022

Appeal Ref: APP/G5750/W/21/3286093

19 Randolph Approach, West Beckton, London E16 3HU

- 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 Abebayo Awosika against the decision of London Borough of Newham.
 - The application Ref 21/00991/COU, dated 22 April 2021, was refused by notice dated 2 July 2021.
 - The development proposed is described on the application form as 'Change of use Assisted home for 3 adults Class C3 to Class C4 HMO up to 6 persons'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of the proposed development shown on the application form, which is for an HMO for up to 6 persons, the appellant indicates in his statement that the proposal would provide a 3 bed 3 persons HMO. However, he also indicates that this would allow the provision of 2 beds or 1 bed in each room to ensure single persons or couples are accommodated in the property. In this regard, I agree with the Council that it is reasonable to assess the proposal as three double occupancy bedrooms.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the supply of family housing in the borough;
 - whether the occupants of the proposed development would have reasonable access to transport, facilities and services;
 - the effect of the proposed development on the living conditions of nearby residents, with particular reference to noise and disturbance; and
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to internal space.

Reasons

Family housing

4. The London Strategic Housing Market assessment (SHMA) indicates that new developments are failing to provide enough affordable and family sized housing

for London's growing population. Policies H1, H3 and H4 of the Newham Local Plan 2018 (LP) seek to prevent the loss of housing, with a particular emphasis on existing family housing. Moreover, they support the de-conversion of flats and HMOs back to family dwelling houses (Use Class C3) where possible.

5. There is no dispute between the parties that the property is currently being used as a home for the assisted living of 3 occupants. Furthermore, they agree that the use has existed for a number of years and is considered to be a legitimate C3 (b) use. In this regard I find that, whilst the property is not currently used as a traditional family dwelling, it does operate on the basis of a single household.
6. On my site visit I saw that the appeal property was located in a suburban residential area, comprised primarily of family dwellings. It has 3 bedrooms on the first floor. On the ground floor there was a lounge, kitchen a bathroom and shower room accessible to the residents. To the rear was a small courtyard that contained an outbuilding that was being used as an office. Notwithstanding its current use the property retained many of the qualities associated with a traditional family dwelling. It could be converted back to its former use without significant difficulty.
7. I note reference, in the appellant's statement, to the provision of accommodation for up to 3 people (notwithstanding the proposal is for up to 6 persons), with the indication that the proposal would help meet demand for single person units. However, I have been presented with no substantive evidence to support the assertion that there is a need for single person accommodation. Moreover, this view contradicts the evidence within the SHMA which suggests that the greater need is for family accommodation. On this basis the proposal would have a harmful effect on the supply of family housing in the borough.
8. In light of the above I conclude that the proposed development would be contrary to the Policies H1, H3 and H4 of the LP and Policy H10 of the London Plan 2021 (the London Plan). These policies jointly seek, amongst other matters, a mix of house types, including a significant increase in family housing, with evidence of need, whilst supporting the de-conversion of flats and HMO's back to family accommodation. These policies are consistent with paragraph 62 of the National Planning Policy Framework (the Framework)
9. The Council refer to Policies S1, SP1, SP2 and SP3 of the LP and Policies GG4 and H8 of the London Plan in their first reason for refusal. In the main these policies relate to high level spatial strategy, placemaking, considerations of design, healthy neighbourhoods and neighbourly development. Consequently, they are not the specifically relevant to this main issue.

Access to transport, services and facilities.

10. Policy H3 of the LP directs HMOs to town and local centres, and along key movement corridors.
11. The appellant accepts that the appeal site is not located within the town centre but asserts that it is in a very sustainable urban location, within close proximity to local services. Moreover, they say that the appeal site is in a good PTAL, accessible to a range of users. No evidence is submitted to support this assertion. On my site visit I saw that there was a limited range of services and

facilities close to the appeal site. However, I saw no evidence of public transport routes, in the locality, that would enable future residents to access nearby town or local centres. Consequently, I find that there is insufficient evidence before me to indicate that future residents would have good access to the full range of services that they would require.

12. In light of the above the proposed development would be contrary to Policy H1, H3 and H4 of the LP which requires HMOs to be in locations that have good access to public transport and a range of services and facilities. It would also be contrary to paragraph 105 of the Framework which seeks development that is focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
13. I note that the Council has also referred to Policies S1, S2, SP1, SP2 and SP3 of the LP and Policies GG4, H8 and H10 of the London Plan in their second reason for refusal. These policies relate to high level spatial strategy, placemaking, design, healthy neighbourhoods and neighbourly development, and consequently they are not specifically relevant to this main issue

Living conditions – Future occupiers

14. I note that the Council has assessed the proposal against the East London Guidance and Housing Licensing Guideline. They have also referred to the Newham Council Private Rented Property Licensing Guide for Landlords and Managing Agents. I note that the minimum rooms sizes indicated differs between the 2 documents. That said, I am unaware of the status of these publications and consequently, I have given them only limited weight. I have taken into account the requirements set out in Policy D6 of the adopted London Plan which provides internal space standards for housing developments.
15. When judged against the adopted standard I find that bedroom 1 (front room) would meet the 11.5 sqm requirement for a double bedroom. Bedrooms 2 and 3 would meet the 7.5 sqm floor area requirement for a single room but fail to meet the requirement for double bedrooms. Consequently, I find that the property would result in cramped and poor quality accommodation if the property was to be occupied by up to 6 persons
16. I note the Council's concern regarding the availability of personal washing and WC facilities. On my site visit I noted that both the bathroom and the shower room contained a WC. Even if the property was occupied by 6 persons, I find that there would be adequate facilities to meet the occupants reasonable everyday needs.
17. For the reasons above, I conclude that the proposed development would not have provide adequate living conditions for future occupants. Therefore, in this respect the proposed development would be contrary to Policy SP8 of the LP and Policy D6 of the London Plan which require appropriate provision for communal spaces and private amenity spaces (e.g. bedrooms and places of retreat) in multiple-user buildings (including HMOs). It would also be contrary to paragraph 130 of the Framework which, amongst other matters, supports developments that provide a high standard of amenity for future users.
18. Policies S1, S6, SP1, SP2, SP3, H1, and H4 of the LP and Policy GG4 of the London Plan are also referred to in the Council's fourth reason for refusal. These policies relate to high level spatial strategy, placemaking, design,

healthy neighbourhoods and neighbourly development. They are not specifically relevant policies to this main issue.

Living condition – neighbours

19. The property is currently occupied by 3 adults. The activities associated with those occupants is not necessarily restricted to those that would normally be the case if the property had been occupied by a family. Moreover, the existing C3 (b) use allows an increase in the number of occupants to no more than six. Consequently, if the appeal were to be supported a similar number of people could occupy the property to that allowed by the permitted use.
20. I acknowledge that some appeal decisions have found that the number of comings and goings would have a detrimental impact on the living conditions of neighbouring properties. However, this case is not directly comparable with those referred to by the Council, insofar as they related to the conversion of family homes to HMOs. In any event, I have not been provided with full details of those cases and every decision should be made on its own individual merits.
21. Even if I were to find there was a notable increase in comings and goings, I have not been presented with sufficient evidence to demonstrate that this location is so noise sensitive to additional pedestrian movements, or from activities inside and outside the premises, that it would cause significant harm to the living conditions of neighbouring occupiers. In this regard I note that no comments were received from the Council's Environmental Health officer, and no objections were received from neighbouring residents.
22. For the reasons above, I conclude that the proposed development would not have a harmful effect on the living conditions of nearby residents with particular reference to noise and disturbance. Therefore, in this respect the proposed development would not be contrary to Policy SP8 of the LP and Policies D3 and D14 of the London Plan which jointly seek to avoid unacceptable exposure to noise. Furthermore, it would not be contrary to paragraph 130 of the Framework which, amongst other matters, supports developments that provide a high standard of amenity for existing users.
23. Policies S2, SP1, SP2, SP3, H1, H3 and H4 of the LP and Policies GG1, GG3 and GG4 of the London Plan are also referred to in the Council's third reason for refusal. These policies relate to high level spatial strategy, placemaking, design and healthy neighbourhoods. They are not specifically relevant policies to this main issue.

Other Matters

24. I note that there would be no external alterations to the property and consequently the appeal site would not be harmful to the character or appearance of the host property or the area. I also consider that the property would have adequate external amenity space to meet the requirements of an HMO. I give these matters neutral weight

Conclusion

25. I have found that there would not be harm in regard to effect on the living conditions of neighbouring occupants. However, a lack of harm would be a neutral matter and thus could not, by definition, be used to weigh in favour of the development. The proposed development would conflict with the

development plan for the reasons that I have given in regard to the effect on the supply of housing, access to transport, facilities and services, and whether it would provide acceptable living conditions for future occupants. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed

John Gunn

INSPECTOR