



Appeal Decisions

Site visit made on 25 April 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Appeal A Ref: APP/G5750/W/21/3283749

18 Sprowston Road, Forest Gate, London E7 9AD

- 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 Kashif N against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/01555/FUL, dated 18 June 2021, was refused by notice dated 31 August 2021.
 - The development proposed is conversion of dwelling to HMO (sui generis), and associated works.
-

Appeal B Ref: APP/G5750/W/21/3283751

18 Sprowston Road, Forest Gate, London E7 9AD

- 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 Kashif N against the decision of Council of the London Borough of Newham.
 - The application Ref 21/01553/FUL, dated 18 June 2021, was refused by notice dated 31 August 2021.
 - The development proposed is conversion of dwelling to HMO (sui generis), and use outbuilding as self contained residential unit, and associated works.
-

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. There are two appeals relating to this site as set out above. Although I have considered each on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. Policies H5 and H6 of the Detailed Sites and Policies Development Plan Document (2016) have been referred to by the appellant. However, that document was superseded by the Newham Local Plan (2018) (Local Plan) and those policies are no longer relevant.

Main Issues

5. The main issues for both appeals are:
 - The effect of the development proposed on the supply of family sized housing in the Borough;

- Whether the development proposed would be in a suitable location having regard to policies in respect of Houses in Multiple Occupation;
- Whether the proposals would provide for satisfactory living conditions for future occupiers, with particular regard to daylight, sunlight, outlook, ventilation, privacy and the access arrangements for the self-contained residential unit, and;
- The effect of the proposals on the living conditions of neighbouring occupiers, with regard to noise and disturbance, privacy, light spill and odour.

Reasons

Supply of family housing

6. The appeal property is a two storey detached dwelling which includes a large rear outrigger and accommodation within the roof space. The property is located within a residential area of houses and flats with more commercial areas relatively close by on Romford Road and Woodgrange Road.
7. Notwithstanding the views of the Council and the appellant about the number of bedrooms in the appeal property, it is any event a large family sized dwelling. The generous internal layout and access to a large private external amenity space to the rear, provides good quality accommodation suitable for occupation by a larger family. Both appeal schemes relate to the proposed subdivision of the building to create an eight bedroom House in Multiple Occupation (HMO), whilst Appeal B also proposes the use of the rear outbuilding as a one bedroom self-contained residential unit.
8. Policy H4 of the Local Plan seeks to protect 3 bed and 4 plus bed family housing and supports the de-conversion of flats and HMOs back to family dwelling houses. The justification to Policy H4 states that it is very clear from analysis of requirements that Newham will fail to provide enough family housing if it does not both increase the rate of new provision (as per Local Plan Policy H1) and hold onto existing family stock.
9. Policy H4 outlines certain circumstances in which the conversion of family housing may be acceptable. Although the development would be within 400m of Forest Gate District Centre, it would meet none of the remaining criteria to the policy. This is because it is not located above an existing occupied commercial unit; it does have access to external private amenity space and its entrance is well defined. As a result, the proposals would conflict with Local Plan Policy H4 as they would result in the loss of a larger family house which currently provides appropriate internal and external living space. That would further imbalance the supply of larger family houses in the Borough.
10. While the appellant asserts that the property is too large for typical family occupation, I have no substantive evidence before me to show that it is too large to be occupied by a single family. It is also put to me that local policies do not define what is considered to be a family sized home. However, Policy H4 of the Local Plan is clear that the Council will specifically protect 3 bed and 4 plus bed family housing.
11. For the above reasons, I conclude that the proposals would have a harmful effect on the Borough's supply of family sized housing. The proposals would be

contrary to Policies S1, S6, SP1, SP2, SP3, H1, H3 and H4 of the Local Plan and Policies GG4, H8 and H10 of the London Plan (2021). Amongst other matters, these policies seek to protect and increase the amount of family housing in the area by resisting the loss of family dwellings through conversion or sub-division, create mixed and inclusive communities and provide high quality residential accommodation. The proposals would also conflict with paragraph 62 of the National Planning Policy Framework (the Framework), which seeks to ensure that the size, type and tenure of housing needed for different groups in the community is assessed and reflected in planning policies.

12. The Council suggest conflict with Local Plan Policy S3. However, as this policy relates to the Royal Docks it is of no relevance to this appeal.

Suitable location

13. Local Plan Policy H3 says that large and small HMOs should be purpose built or converted from premises other than family sized dwellings. It goes on to state that purpose built build to rent HMOs, and otherwise policy compliant conventional HMO conversions should be directed to Town and Local Centres and along Key Movement Corridors, where compatible with other policies.
14. Although the appeal site is within close proximity of services and facilities on Romford Road and Woodgrange Road, it is not within a designated Town or Local Centre or Key Movement Corridor. While the appeal property is located within a designated strategic site allocation, there is no evidence before me to indicate that new HMOs are acceptable here.
15. I therefore conclude that the proposal would not be in a suitable location having regard to policies in respect of HMOs. It would conflict with Policies H1 and H3 of the Local Plan, which together seek to restrict HMOs and direct them to Town and Local Centres and Key Movement Corridors. It would also conflict with paragraph 62 of the Framework, the aims of which are outlined above.
16. On this main issue, I find there would be no conflict with Policies S1 and H4 of the Local Plan, insofar as these relate to the protection of family dwellings, or Local Plan Policy S2 relating to strategic principles for development in Stratford and West Ham. Nor would there be a conflict with Policies SP1 and SP3 of the Local Plan or Policy GG4 of the London Plan in relation to this main issue, insofar as these seek a well-connected and integrated series of successful and distinctive mixed use areas. There would be no conflict with Policies H8 and H10 of the London Plan as these specifically relate to accommodation to be lost and the mix of unit sizes, respectively.

Living conditions of future occupiers

17. Sprowston Road is a mainly residential road occupied by detached and semi-detached properties, some of which have been subdivided into flats, set within relatively large plots. The rear garden of the appeal property and those of neighbouring properties are generally afforded good levels of privacy due to high boundary walls and fences. The appeal property is bound by a semi-detached pair, 14 and 16 Sprowston Road, to the south and by a detached property, 20 Sprowston Road, to the north. There are residential properties on the opposite side of the road and flats to the rear, with commercial properties on Woodgrange Road beyond.

18. The Council says that the HMO could be occupied by up to 15 persons and that the communal living room should be at least 25sqm in floor area according to the HMO guidance referred to by the Council¹. The plans indicate that the proposed lounge / dining room would provide around 23sqm of floor space. Whilst this would be marginally below the minimum requirements for a 15 person HMO, the appellant confirms that the HMO within the main building would only cater for 8 persons. Moreover, during my visit I observed that the proposed lounge / dining room is a reasonably large space, which opens out into the kitchen and would therefore receive borrowed light and natural ventilation from the glazed doors and window to the rear elevation of the building. I am satisfied that this space would provide a sufficiently large communal lounge / dining area for the intended number of occupants and that it would be provided with adequate levels of natural light and outlook.
19. Bedroom 2 would not be served by a window. It does, however, include doors out to the small enclosed courtyard which would provide natural light from the glazed covering to its roof. However, other than views towards the sky the courtyard would provide little outlook and moreover, given that the courtyard is roofed over, Bedroom 2 would not benefit from adequate natural ventilation. Bedroom 2 would not, therefore, provide a satisfactory standard of accommodation for future occupants. It is reasonable to expect that a not insignificant proportion of the occupant's day would be spent within the bedroom.
20. Bedroom 3 to the rear of the building would be served by a glazed door to the rear elevation and a rooflight, which would provide some outlook and light. While this room is narrow and irregularly shaped, the plans indicate that it would be a reasonably large space that would be capable of accommodating a double bedroom. I therefore consider that this room would be provided with adequate internal space, light, natural ventilation and outlook.
21. The residential unit proposed within the outbuilding that is subject to Appeal B would be served by windows to the front elevation and roof lights to the rear. The kitchen, dining room and bedroom would be located at the rear of the outbuilding and would not be served by windows. Due to the open plan layout the kitchen and dining room would benefit from sufficient borrowed light from the windows to the front of the outbuilding and from a roof light. Although the bedroom would receive some light from the roof light, given its small size it would be unlikely to provide satisfactory levels of light and moreover would not provide an adequate outlook. That would lead to a dark and oppressive living environment within the sole bedroom of this unit.
22. I note that the appellant would be willing to accept a condition restricting the maximum occupancy of the HMO to 8 persons. However, for the reasons given, the proposed internal layout of the property would not provide good living conditions for future occupiers and such a condition would not sufficiently mitigate the harm that I have identified.
23. In terms of the scheme subject of Appeal B, access to the outbuilding can only be achieved through the entrance hall, living and kitchen areas of the main dwelling. The proposed residential unit within the outbuilding would only be accessible through the proposed HMO. The appellant states that it is their

¹ 'HMO East London Guidance (4)' and Newham's 'Private Rented Property Licencing Guide for Landlords and Managing Agents

intention that the occupant of the self-contained unit would use the facilities in the main building and the appellant would be willing to accept a condition that this unit only be occupied as part of and in conjunction with the HMO use of the site.

24. However, in the scheme subject of Appeal B, it is described as a self-contained residential unit and the plans show that it would contain separate living and dining areas and a kitchen. The use of the outbuilding as a self-contained residential unit would not successfully integrate with the prevailing pattern of development in the immediate area, as described above, where properties are generally situated on good sized plots with good levels of privacy. It is likely that the front windows and deck would be overlooked at close range from the communal garden. On that account, as a self-contained residential unit, future occupants would not be afforded sufficient levels of privacy.
25. Due to the distance between the outbuilding and the main building and the neighbouring properties, it is unlikely that the windows to the front of the outbuilding would be significantly overlooked from the rear windows of the main building and the neighbouring properties.
26. For the above reasons, I conclude that the proposals would not provide for satisfactory living conditions for future occupiers of the development having regard to daylight, sunlight, outlook, ventilation, privacy and the access arrangements for the self-contained accommodation. The proposals would therefore conflict with Policies S1, S6, SP1, SP2, SP3, SP8 and H1 of the Local Plan, Policies GG4, D1, D3, D4, D5 and D6 of the London Plan, and the Framework, which, amongst other things, seek to ensure that development would provide good design, high quality places and achieve a high standard of amenity for future occupiers.
27. The Council's reason for refusal relating to the use of the outbuilding refers to Policy SP9 of the Local Plan. That policy relates to cumulative impacts of development. There is no detailed evidence before me to suggest that the development would create or add to adverse cumulative impacts and I therefore find no conflict with this policy.

Living conditions of neighbouring occupiers

28. A further concern of the Council is that the proposal would lead to increased comings and goings and noise and disturbance. Since the appeal property provides accommodation capable of being occupied by a large family unit, it is likely that it could already result in a reasonable degree of comings and goings associated with a large family. The 8 bedrooms in the main HMO building and a further bedroom within the outbuilding that is part of the scheme subject of Appeal B would not represent a significant increase over the existing number of bedrooms. However, I acknowledge there would be some differential characteristics of use associated with an 8 bedroom HMO rather than a single dwelling unit. For example, patterns of movement may differ from those associated with a single dwelling.
29. Sprowston Road is a relatively busy road which leads to Romford Road, a bustling high street. It appeared to be a road which is well used by pedestrians and where, due to its location, there are likely to be reasonably high levels of activity during both the day and night.

30. I have not been provided with any substantive evidence to suggest that the proposals would result in a significant increase in comings and goings or cause or exacerbate any problems with noise or disturbance when compared to the existing use of the property. Occupants of the proposed HMO would continue to utilise the front entrance of the building, as existing, which is situated a reasonable distance away from the immediate neighbours. Given its limited size and scale, the use of the outbuilding as a further unit of accommodation with one bedroom, as proposed in Appeal B, would also be unlikely to result in significant increased comings and goings in the rear garden space.
31. Taking these factors into account, any additional activity arising from the appeal proposals would not result in significant noise and disturbance to the extent that would cause unacceptable harm to the living conditions of neighbouring occupiers. Moreover, unacceptable levels of noise and disturbance are not the inevitable consequence of HMOs, but rather a question of individual behaviour and appropriate management.
32. I note the previously dismissed appeals referred to by the Council which related to proposals for the conversion of dwellings to HMOs. However, the precise circumstances of these cases are not before me, and so I am unable to be certain if they represent a direct parallel to the case before me.
33. Bearing in mind the scale of the outbuilding, including the small size of the windows to the front elevation and the distance away from the rear of the neighbouring properties, in my view it is unlikely that there would be any significant loss of privacy or light spill. There is no substantive evidence before me to suggest that its use as residential accommodation would result in odour nuisance.
34. On this main issue, I conclude that the proposals would not be harmful to the living conditions of the neighbouring occupiers with regard to noise and disturbance, privacy, light spill and odour. In this respect, there would be no conflict with Policies SP1, SP2, SP3, SP8, H1 and H3 of the Local Plan, which seek to ensure that Newham is an attractive place to live, creating healthy and quality neighbourhoods and ensuring neighbourly development. Nor would there be any conflict in this regard with Policies D3, D14, GG1, GG3 and GG4 of the London Plan where these seek to reduce and mitigate noise, protect quality of life and deliver appropriate outlook, privacy and amenity. The proposals would also not conflict with the Framework, where it seeks to ensure a high standard of amenity for existing users.
35. Local Plan Policies S2 and H4 were referred to in the Council's reason for refusal, but as these relate to strategic principles for development in Stratford and West Ham and protecting and re-shaping the existing housing stock respectively, they are of no relevance to this main issue.

Other Matters

36. The appellant says that the development proposals would accord with Policy D8 of the London Plan. This policy relates to the public realm and is of little, if any, relevance to this appeal.
37. I am mindful that no objections have been received from neighbouring residents in relation to the proposals, but this does not outweigh the harm that I have identified.

Planning Balance and Conclusion

38. I find that the proposals would not be harmful to the living conditions of neighbouring occupants. However, lack of harm in respect of this matter is neutral rather than weighing positively in favour of the proposals. For the reasons given above, I consider that the proposals would be harmful to the supply of family sized dwellings in the Borough, would not be in a suitable location having regard to policies in respect of HMOs, and would not provide satisfactory living conditions for future occupants. I have considered the benefits of the proposals which include the provision of cheaper housing accommodation close to public transport, shops and facilities. However, given the scale of the development these benefits are limited and do not individually or cumulatively outweigh the harm I have identified.
39. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that both appeals should be dismissed.

M Ollerenshaw

INSPECTOR