



Appeal Decision

Site visit made on 28 April 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30/05/2022

Appeal Ref: APP/Y5420/W/21/3281193

37 Boundary Road, Tottenham, London N22 6AS

- 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 Mrs M Larijani - KIKS Group Ltd against the decision of London Borough of Haringey.
 - The application Ref HGY/2021/1930, dated 3 June 2021, was refused by notice dated 30 July 2021.
 - The development proposed is change of use from a dwelling (C3 use) to a 6 bedroom 6 Person House of Multiple Occupation (HMO) (C4 Use) including rear dormer and installation of two rooflights in front roof slope.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs M Larijani - KIKS Group Ltd against London Borough of Haringey. This application is the subject of a separate Decision.

Background and Main Issues

3. The reason for refusal given on the Council's decision notice relates to the living environment that would be provided for future residents of the HMO. However, the Council's delegated report, which was incidentally provided by the appellant, includes reference to amongst other things, the comments of the Council's Transportation Team. These comments confirmed that no objection was raised on transport grounds, subject to amongst other things a Section 106 obligation being entered into to ensure that the HMO would be 'car-free'. No such obligation is before me. In the circumstances, it is incumbent on me to consider this matter in detail. Therefore, the main issues are:
 - (i) Whether the proposal would provide acceptable living conditions for future occupiers with particular regard to provision of internal space and facilities; and
 - (ii) Whether or not the proposal would facilitate car-free sustainable development that would encourage walking, cycling and the use of public transport.

Reasons

Living conditions for future occupiers

4. The Haringey Standards for Houses in Multiple Occupation (2017) (HMO Standards), sets out amongst other things requirements for kitchen facilities

within HMOs. Where some or all of the units of accommodation do not have exclusive kitchen facilities, the HMO Standards set out that shared facilities shall be provided in a ratio of one set of facilities to a maximum of three lettings.

5. The drawings provided illustrate that two sinks and two hobs would be provided. There is no indication that it would not be possible to provide sufficient worktop, refrigeration and freezer, cupboard and refuse disposal space. From what I saw during my site visit, there was ample room within the kitchen to provide such facilities. Therefore, I am satisfied that the kitchen facilities provided would be sufficient to cater for the proposed 6 residents.
6. With regards to the Council's concern that the proposed loft bedroom would be more than one floor away from the communal kitchen, the appellant has drawn my attention to Paragraph 3.5 of the HMO Standards. This confirms that this requirement may be waived where a suitable, adequately-sized dining room or dining area is provided for the occupiers of such lettings either on the same floor as, or no more than one floor distant, from a kitchen.
7. Given occupiers of HMO's more often live independently, it is unlikely that a large communal dining area would be necessary. From what I saw, the kitchen is of a size which could accommodate an adequately-sized dining area. Therefore, I am satisfied that the proposal could meet the HMO Standards in this regard.
8. There is no objective evidence before me to suggest that, the room sizes or Gross Internal Area (GIA) would not meet the minimum internal space requirements set out in the Government's 'Technical housing standards – nationally described space standard' (national standard) and Policy D6 (Housing quality and standards) of the London Plan 2021 (LP 2021). Indeed, in all instances, the proposed bedrooms would exceed the minimum GIA for a double bedroom. Therefore, I am satisfied that the proposed 6 bedroom, 6 person HMO would not be overcrowded.
9. I conclude, the proposal would provide acceptable living conditions for future occupiers. In that regard, it would comply with the requirements for new housing to meet space standards and provide comfortable and functional layouts in Policy D6 (Housing Quality and Standards) of the LP 2021, Policies SP2 (Housing) and SP11 (Design) of the Haringey Local Plan Strategic Policies (2013, with alterations 2017) (LPSP) and Policy DM12 (Housing Design and Quality) of the Haringey Development Management Development Plan Document (2017) (DPD). For reasons set out, the proposal would also comply with the Haringey Standards for Houses in Multiple Occupation (HMOs) (2017).

Whether or not the proposal would facilitate car-free sustainable development

10. The appeal site has no on-site parking facilities. During my site visit, I saw that the site is located within a Controlled Parking Zone (CPZ) with on-street parking reserved for permit-holders only Monday – Saturday 8am – 6.30pm. The evidence before me indicates that the area where the appeal site is located has a Public Transport Accessibility (PTAL) rating of 4 and therefore a good level of public transport accessibility.
11. The Transport Planning comments in respect of the appeal proposal take the above factors into account and confirm that the HMO would need to be a

car-free development. This aligns with Policy T6 (Car parking) of the LP 2021 states amongst other things that car-free development should be the starting point for all development proposals in places that are well-connected by public transport. It also accords with the aims of the National Planning Policy Framework (the Framework) which amongst other things promotes sustainable transport options and confirms that for development proposals opportunities to promote walking, cycling and public transport use should be identified and pursued.

12. Policy DM32 (Parking) of the DPD supports proposals for new development with no on-site parking in CPZs and the sub-text to this policy sets out that developments without parking are only likely to be viable in areas with a PTAL rating of 4 or above and where a CPZ is in existence. The DPD confirms that in such cases the Council will not issue residents with on-street parking permits and that landowners will be required to advise occupiers of a development's car-free status. The DPD also states that a section 106 or other legal agreement will be required for all new car-free developments of more than 4 residential units.
13. In order to ensure that no residents of the HMO would be entitled to apply for a resident's parking permit or visitor permit voucher and to be truly car-free, the Transport Planning comments advise that the appellant would be required to make a contribution of £4,000 towards the amendment of the Traffic Management Order (TMO) which controls on-street parking in the vicinity of the development. The payment of this contribution could only be secured with precision and enforceability as part of a planning obligation. In the interests of certainty, this would need to be in place before planning permission is granted. The necessity for a S106 car-free planning obligation is made clear in the delegated report and therefore the appellant will be aware of this but has not addressed the matter.
14. In addition, I have seen the concerns of third-parties in respect of the limited availability of on-street parking in the area. Without the necessary planning obligation, the proposal would also potentially add to parking-stress levels causing inconvenience for residents in the area.
15. I conclude, in the absence of a suitable planning obligation, the development would not facilitate car-free sustainable development. In that regard it would conflict with the sustainable transport requirements of Policies T1 (Strategic approach to transport), T4 (Assessing and mitigating transport impacts), T5 (Cycling) and T6 (Car parking) of the LP 2021, Policy DM32 (Parking) of the DPD, Policy SP7 (Transport) of the LPSP and the Framework.

Other Considerations

16. All the proposed bedrooms exceed the minimum GIA in the national standard of 11.5m² for a double (or twin bedroom), and in some instances by a considerable margin. Therefore, the Council's concern that the HMO would be capable of facilitating higher levels of occupation than that proposed is logical. If such a situation were to occur, I am not persuaded the internal living environment would be overcrowded given the compliance with the national standard.
17. However, while 6 occupants would be comparable to the levels of occupation associated with a single family unit, more intense levels of occupation have the

potential to materially increase levels of activity, such as comings and goings, and associated levels of noise and disturbance. Given the position of the proposed HMO with a terraced row, between dwellings in single family occupation, there is the potential that this would be highly discernible to neighbouring residential occupiers and would be detrimental to neighbouring living conditions.

18. Given the above, a condition restricting the maximum number of occupants to 6 persons would be reasonable in the interests of certainty and in order to protect neighbouring living conditions. However, I have not pursued any detailed wording for such a condition given my conclusion on the second main issue.
19. I have carefully considered the representations made by third-parties including matters not covered under the main issues. There is no objective evidence to suggest that the HMO would be detrimental to the security of neighbouring properties. No detailed evidence has been provided to demonstrate that the dwelling falls below the Gross Internal Area suitable for conversion when considered against the development plan nor that there is an overconcentration of HMOs in the area. I note the Council does not dispute these particular matters.
20. The only alteration to the built form of the host building would be a rear dormer. Given its scale and position within the roof slope, it is unlikely that there would be any material loss of light for neighbouring occupiers. I am also mindful that the Council has confirmed the dormer could be erected under permitted development rights. The relationship with neighbouring properties would not be materially different when considered against this fall-back position. Given the established relationships between neighbouring gardens and upper floor windows and that the number of occupants could be controlled by condition, I am satisfied that there would be no material loss of privacy for neighbouring occupiers.
21. As I have found that the internal living conditions provided would be acceptable, I am not persuaded that the HMO would lead to increased fire risk or health and wellbeing issues. The Council has raised no concerns in respect of the provision of external space and from what I saw the rear garden is of a sufficient size to accommodate the day-to-day needs of future occupiers of the proposed HMO including for example space to sit out and to hang out washing. Given the scale of the HMO there is unlikely to be a significant change from the existing situation in terms of the capacity for bins to be stored to the front of the host building within the associated front yard.
22. The proposal would make a modest but valuable contribution to the housing mix in the area. There is the potential for some limited social and economic benefits associated with the contribution and expenditure that individual residents of the HMO would make towards local services and facilities in the area. These are positive benefits to weigh in the balance.

Planning Balance and Conclusion

23. The undisputed evidence from the appellant is that in the last 3 years the Council has not met its housing requirements. While I have no comments from the Council in respect of this matter, I have nevertheless engaged paragraph 11d of the Framework. In the circumstances, planning permission should be

granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

24. I have found that the proposal would provide acceptable living conditions for future occupiers. However, in the absence of a suitable planning obligation, the development would not facilitate car-free sustainable development and would conflict with the sustainability aims of the development plan and national policy. This is a matter which weighs heavily against the proposal and which significantly and demonstrably outweighs the identified benefits of the proposal when assessed against the policies of the Framework.

25. Therefore, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR