



Appeal Decision

Site visit made on 7 June 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2022

Appeal Ref: APP/A5270/C/21/3266288

82A South Road, Southall, Middlesex UB1 1RD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs. Manjit Komal against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 13 November 2020.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the first floor, second floor and loft to a House in Multiple Occupation (Sui Generis).
 - The requirements of the notice are to:
 1. Cease the use of the first floor, second floor and loft as a large House in Multiple Occupation (Sui Generis).
 - The period for compliance with the requirement is: 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. Since the enforcement notice was issued, the London Plan 2021 has been published. The Council has provided me with copies of relevant policies and the appellant has been given the opportunity to comment on the implications of these policies through the appeal process and so I shall take them into account in my decision.

Main Issues

3. The main issues are the effect of the appeal scheme on:
 - The living conditions of existing and future occupants, having regard to the provision of internal and external space;
 - The living conditions of occupants and neighbouring occupants, with respect to noise and disturbance; and
 - The character and appearance of the area.

Reasons

Living conditions- internal and external space

4. The appeal premises comprises a 6 bedroom property located over three floors, set above a commercial premises. There is a communal kitchen, which is located on the first floor. The appeal premises fronts onto the high street, South Road, and is accessed via a service road to the rear. There is very limited outside space to the rear of the premises, which was used for the drying of clothes at the time of my visit.
5. Policy D6 of the London Plan (2021) sets minimum requirements for internal space in new dwellings. Although no space requirement is identified for a 6 bedroom, 10 person dwelling over three storeys, the requirement for a 6 bedroom, 8 person dwelling over three storeys is 138sqm. The appeal property measures around 120sqm and as such, falls significantly below the required space standard.
6. While the premises has been issued with an HMO licence, this simply demonstrates that the premises has met the minimum requirements for human habitation and does not remove the need to comply with planning policy. I saw that space within each of the units is limited and was unable to access the shower room in one of the rooms as it was blocked by a bed.
7. There is very limited communal space and whilst the kitchen appeared well equipped and accessible to all occupants, given the number of individuals occupying the property, I consider occupants are unlikely to spend much time in it. Occupants may even avoid using the kitchen while others are using it due to the limited space. As a consequence, occupants of the property are likely to choose to spend the majority of their time in their respective rooms. Given the modest size of the rooms and the fact that some have multiple occupancy, I consider the limited space within the property is harmful to the living conditions of its occupants, contrary to policy D6 of the London Plan.
8. Policy 7B of the Ealing Development Management Development Plan Document (DPD)(2013) seeks to ensure coherent development of the site. The justification of the policy explains to achieve coherent development, schemes should ensure high quality external spaces offering good amenity to users. Where development increases demand for open space, policy 7D of the DPD seeks to secure an appropriate contribution towards meeting this additional demand. Table 7D.2 sets out private garden space provision requirements of 5sqm per 1-2 person unit, plus 1sqm for each additional occupant for a house or flat. The Planning New Garden Space Supplementary Planning Document (SPD)(2015) advises that this is a minimum standard and will be required of all residential development.
9. The appellant suggests that Southall Park would provide ample external amenity space for the occupants. However, due to intervening buildings, occupants would need to walk a considerable distance to access the park. Furthermore, while Southall Park would provide open space for the occupants to enjoy, it would not provide private outdoor space for the occupants to carry out activities such as hanging out washing.
10. The Council advise that the lawful use of the property is as a single family dwellinghouse. Were the appellant to comply with the requirements of the

notice, the building would benefit from permitted development rights and could change the use of the premises to a C4 House in Multiple Occupation (HMO), which could be occupied by up to 6 people. Nevertheless, the occupation of the premises by 10 individuals is significantly greater and results in additional requirement for private garden space.

11. The appellant suggests in most circumstances, the appeal premises would only accommodate 6 individuals. However, they have raised concern regarding the Council's suggested condition to limit occupation of the premises to 6 individuals. In my view, the inclusion of such a condition would negate the benefit of the permission to such a degree it would be unreasonable.
12. While existing occupants may be satisfied with the quality of living accommodation, occupants may change. The limited internal space and lack of outside space is, in my view, harmful to the living conditions of the occupants, contrary to policies 7B and 7D of the DPD, the SPD, and policy D6 of the London Plan, the requirements of which are set out above.

Living conditions- noise and disturbance

13. Policy 7A of the DPD seeks to ensure that development does not erode the amenity of surrounding uses or the site itself and policy 7B of the DPD seeks to ensure development achieves a high standard of amenity for users and for adjacent uses. Policy D3 of the London Plan, which seeks to deliver appropriate amenity and prevent or mitigate the impacts of noise, amongst other things.
14. Although the appeal property is located in a town centre location where background noise levels are likely to be the dominant source of noise, the use of the property by 10 individuals is likely to generate a significant number of comings and goings, at various times of the day, with a higher incidence of visitors, resulting in noise and disturbance to neighbouring occupants. While the comings and goings are likely to be on foot, noise from individuals talking and slamming of doors is likely to be significantly greater compared with occupation by a family or even compared to a 6 person HMO.
15. The window of one of the first floor bedrooms looks out towards the stairwell. Occupants of the room are likely to find the comings and goings of the different households within the property particularly intrusive. This is likely to be compounded by disturbance caused by users of the adjacent kitchen. While the room could be utilised as a bedroom as part of a dwellinghouse or C4 HMO, even if this were the case, the comings and goings and resultant disturbance would be considerably less compared with a 10 person HMO.
16. Given the limited communal space within the building, rooms are likely to be used for recreational activities such as watching the television, listening to music and receiving visitors. Given the number of individuals in the property, this is likely to generate significant noise through the shared walls, which is likely to be harmful to the living conditions of both the occupants and neighbouring occupants, contrary to policies 7A and 7B of the DPD and policy D3 of the London Plan, the requirements of which are set out above.

Character and appearance

17. The appeal premises comprises residential accommodation above a commercial unit, which fronts onto South Road. Access to the accommodation is via a concrete staircase which is accessed via a service road to the rear of the

building. Although the ground floor of the properties along South Road are generally commercial, residential properties above are characteristic of the area.

18. The Council advise that, apart from a large detached property some distance from the appeal property, there are no large HMO permissions in the immediate area. Nevertheless, as confirmed by the Council, there have been no external changes to the property as a result of the development. Residents using the service road to access the property is characteristic of the area and whilst the number of individuals accessing the appeal dwelling is greater than would be generated by a C3 or C4 use, I do not consider it would be uncharacteristic of the area.
19. Consequently, there is no harm to the character and appearance of the area and no conflict with policy 7B of Ealing's Adopted Development Management DPD (2013), which seeks appropriate levels of development on site, amongst other things and 7.4 which seeks to protect local character and policy D3 of the London Plan (2021), which seeks to ensure development is the appropriate land use for the site.

Conclusion

20. While I have found the appeal scheme does not harm the character and appearance of the area, this is a neutral factor in my consideration of the appeal. The appeal scheme fails to provide satisfactory living conditions for its occupants and is harmful to the living conditions of neighbouring occupants.
21. Thus, I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

M Savage

INSPECTOR