



Appeal Decisions

Site visit made on 7 June 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2022

Appeal A Ref: APP/W5780/C/21/3276181

Land at Ground, First, Second and Third Floors at 28-30 Cranbrook Road, Ilford IG1 4NE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ilford Investments Limited against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The notice was issued on 6 May 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the upper floors above numbers 28-30 from ancillary retail use (Use class: A1) to a large house in multiple occupation (Use class: Sui Generis).
 - The requirements of the notice are to:
 - (i) Cease the use of the site as a House in Multiple Occupation; and
 - (ii) Remove all partitions, fixtures and fittings that facilitate the use as a HMO;AND
 - (iii) Clear all resultant debris.
 - The period for compliance with the requirements is: no later than 6 months from the date of the notice taking effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) 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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Appeal B Ref: APP/W5780/C/21/3276182

Land at Ground, First, Second and Third Floors at 32 Cranbrook Road, Ilford IG1 4NE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ilford Investments Limited against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The notice was issued on 6 May 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the upper floor premises at number 32 from retail to large House in Multiple Occupation (HMO) (Use class: Sui Generis).
 - The requirements of the notice are to:
 - (i) Cease the use of the site as a House in Multiple Occupation; and
 - (ii) Remove all partitions, fixtures and fittings that facilitate the use as a HMO;AND
 - (iii) Clear resultant debris.
 - The period for compliance with the requirements is: no later than 6 months from the date of the notice taking effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) 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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Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by:
 - (a) deletion of the words 'Land at first and second floors, 28-32, Cranbrook Road' at Section 2 and their substitution with the words 'Land at ground, first, second and third floors at 28-30 Cranbrook Road'; and
 - (b) deletion of the words 'the upper floors above numbers 28-30' at Section 3 and their substitution with the words 'part of the ground floor and first, second and third floors'.
2. Subject to these corrections the appeal is dismissed and 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.

Appeal B

3. It is directed that the enforcement notice is corrected by:
 - (a) deletion of the words 'Land at first and second floors, 28-32, Cranbrook Road' at Section 2 and their substitution with the words 'Land at ground, first, second and third floors at 32 Cranbrook Road'; and
 - (b) deletion of the words 'the upper floor premises at number 32' at Section 3 and their substitution with the words 'part of the ground floor, first, second and third floors'.
4. Subject to these corrections the appeal is dismissed and 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.

The Enforcement Notices

5. The land to which the enforcement notices in Appeals A and B relate is described as 'Land at first and second floors, 28-32, Cranbrook Road' and 'Land at first and second floor, 28-32, Cranbrook Road' respectively. It is clear from the descriptions of the alleged breaches of planning control that in Appeal A it is the House in Multiple Occupation (HMO) mainly set over the upper floors of 28-30 Cranbrook Road that forms the subject of that enforcement notice, and it is the HMO mainly set over the upper floors of 32 Cranbrook Road that forms the subject of the enforcement notice in Appeal B.
6. The appellant has confirmed that they own both HMOs and that it is clear to them which land each enforcement notice relates to. However, they have advised, and as I noted during my site visit, each HMO comprises a ground floor access and rooms at first, second and third floor levels. The appellant has invited me to correct each enforcement notice in these respects and the council concurs with this approach.
7. The necessary corrections would not cause injustice to any parties, and I shall therefore delete the text 'Land at first and second floors, 28-32, Cranbrook Road' from the description of the land to which the enforcement notice the subject of Appeal A relates and replace it with 'Land at ground, first, second and third floors at 28-30 Cranbrook Road'. I shall also delete the same text

from the enforcement notice the subject of Appeal B and replace it with 'Land at ground, first, second and third floors at 32 Cranbrook Road'.

8. The misdescription of the land to which each enforcement notice relates is replicated in the description of each alleged breach of planning control. I shall therefore delete the text 'the upper floors above numbers 28-30' from this part of the enforcement notice the subject of Appeal A and replace it with 'part of the ground floor and first, second and third floors'. I shall delete the text 'the upper floor premises at number 32' from the description of the alleged breach of planning control in the enforcement notice the subject of Appeal B and replace it with 'part of the ground floor, first, second and third floors'.

Procedural Matters

9. The appellant has submitted proposed details and changes to the HMOs as part of the deemed planning applications under ground (a) in both appeals which seek to address those matters. They have suggested that these proposed details and changes would ensure the HMOs could provide suitable living conditions for future residents and that they could be required to be implemented in full and retained by conditions.
10. The proposed details and changes submitted by the appellant can be summarised as the reassignment of rooms within the appeal site in each appeal to provide communal space and cycle storage facilities and a description of how refuse at each HMO could be managed. The council was afforded the opportunity to comment on these proposed details and changes. I am satisfied that the proposed details and changes relating to rooms within the HMOs and how refuse could be managed relate to an alternative scheme which would form part of the alleged breach of planning control in each appeal, and I shall take them into consideration as part of the deemed planning applications under ground (a).
11. However, cycle parking facilities are proposed within what the appellant has described as a 'former ground floor storage area' at the rear of 32 Cranbrook Road. This land is located within the red line on the plans attached to each enforcement notice, but it is a separate commercial unit, inaccessible from within each HMO. I saw it was occupied by a retail shop, complete with shopfront, canopy and fascia signage, which was trading during my site visit.
12. Based on the information available, the proposed use of the ground floor commercial unit at the rear of 32 Cranbrook Road for the secure parking of cycles associated with the HMOs would constitute a material change of use requiring planning permission and would not relate to an alternative scheme forming part of the alleged breaches of planning control. I am therefore unable to consider the proposed use of this commercial unit as a cycle storage area as part of the deemed planning applications under ground (a) in each appeal.

Ground (b)

13. To succeed on this ground, the appellants must prove that the matters alleged in each enforcement notice have not occurred, as a matter of fact. The appellant does not deny that the alleged breaches of planning control have taken place, but they have claimed the land referred to in each enforcement notice has been incorrectly described. I have addressed this issue above. The

matters alleged in the enforcement notices have occurred, and as such the appeals under ground (b) are dismissed.

Ground (a) and the deemed applications for planning permission

Main Issue

14. Retrospective planning permission was previously sought in respect of the large HMO the subject of Appeal B. An appeal¹ against the council's decision to refuse retrospective planning permission was dismissed and I note the reasons for serving the notices, and hence the appellant's submissions, in both Appeal A and Appeal B reflect the previous Inspector's findings in that case. The appellant accepts that the current living conditions of occupants of each HMO, having regard to the previous Inspector's findings, are unacceptable and has submitted the proposed details and changes set out above in seeking to address this. I concur with the findings of the previous Inspector, and because the issues in Appeals A and B are broadly similar, I have addressed them together in this decision.
15. Taking the above into account, the main issue in both appeals is whether the proposed details and changes to each HMO would provide suitable living conditions for future occupants, having particular regard to the provision of: (i) communal facilities; (ii) cycle storage facilities; and (iii) refuse and recycling facilities and arrangements.

Reasons

Communal Facilities

16. Plans² have been provided which intend to show how one bedroom in each HMO could be changed to a 'communal room'. These proposed changes would reduce the number of bedrooms in each HMO to 7, which would be served by 1 communal room and 2 communal kitchens in the case of the HMO in Appeal A, and 1 communal room, 1 utility room and 3 communal kitchens in the case of the HMO in Appeal B. I saw that each bedroom has an en suite and a sink with kitchen worktop area and that each of the communal kitchens would be too small to be used for dining in a practical sense.
17. The council's Housing Design Supplementary Planning Document (2019) (SPD) states that all HMOs must provide a high-quality form of accommodation, with communal facilities being required to include at least a living room, kitchen and utility room, appropriate in size to the number of residents. Appendix A of the SPD sets out the minimum size standards for rooms in HMOs, which align with licensing requirements. Those standards include, in addition to any kitchen/dining rooms, a living room of at least 13 sqm to serve 3 people, plus 1 sqm for every additional person.
18. The communal room in Appeal A would measure 11.65 sqm according to the annotated dimensions on the submitted plans, and the communal room in Appeal B would measure 12.15 sqm. A utility room of sorts would be provided in Appeal B, but that boiler room, which I saw to be used for the drying of clothes, is a small space largely occupied by a boiler. It is also proposed to be used as a cycle store, which I shall address below.

¹ APP/W5780/W/19/3243233

² The appellant's Appendix 4

19. In both cases, the proposed communal rooms would serve a minimum of 7 people, based on a single person occupying each bedroom. It is clear from the council's evidence and from what I saw that many bedrooms are occupied by 2 or more people. The appellant has suggested that the total number of occupants of each HMO could be controlled by condition.
20. In both appeals, the proposed changes would fall far short of providing sufficient communal living and utility space for future occupants of both HMOs. Although the proposed changes would make a small improvement to the living conditions of current occupants of the HMOs, the living standards of future occupants would remain extremely poor on account of the lack of sufficient meaningful communal living and utility space, leaving residents to complete most living functions, such as eating, socialising and managing laundry, within their bedrooms.
21. In both Appeal A and Appeal B the proposed changes to the HMOs would be contrary to Policy LP26 of the Redbridge Local Plan 2015 – 2030 (2018) (RLP) and the guidance set out in the SPD. These require, amongst other matters and in addition to that set out above, development to comprise high quality design which provides high standards of accommodation in terms of size, quality and arrangement of internal space, and set minimum size standards for communal living areas.

Cycle Storage Facilities

22. As set out above, I am unable to consider the acceptability of the proposed use of the retail shop at the rear of 32 Cranbrook Road for the storage of cycles associated with the HMOs as part of the deemed planning applications. In addition to those proposed cycle parking facilities, the appellant has proposed 2 cycle spaces at second floor level within the boiler room of 32 Cranbrook Road and 2 spaces under the stairs at ground floor level of 28-30 Cranbrook Road.
23. The boiler room of 32 Cranbrook Road would be an entirely inappropriate location to store cycles because it would require residents to carry them up narrow staircases, past bedroom doors, to second floor level. I was unable to inspect the area under the stairs at 28-30 Cranbrook Road because it was locked and the appellant's representative did not have keys to unlock it. Based on what I was able to see and the submitted plans, it would appear to be a very cramped space incapable of easily storing more than a single cycle in an accessible manner.
24. There are no mechanisms before me to secure appropriate cycle storage facilities to serve the combined total of 14 bedrooms of the HMOs. I note the HMOs are located within a town centre location close to Ilford train station, but this does not convince me the cycle parking standards and aims set out in Policy T5 of the London Plan (2021) and Policies LP22 and LP23 of the RLP should not be adhered to. The HMOs in both appeals, even with the proposed changes I am able to consider as part of the deemed planning applications, would fail to accord with these policies. These require, amongst other things, development to provide sufficient cycle parking in accordance with the minimum standards set out in the London Plan and encourage sustainable forms of transport.

Refuse and Recycling

25. I have not been referred to any designated refuse or recycling storage facilities within the HMOs, but the appellant has advised refuse is collected from each HMO twice a week. I saw examples of food waste left in bags in communal kitchens, which did not appear to be an organised or appropriate arrangement, considering the number of people living within each HMO.
26. The appellant has suggested refuse could be appropriately dealt with through the submission and approval of a management plan, which could be required by a condition specifying the collection of refuse from each HMO should take place no less than 3 times a week. I have not been provided with any details of what such a management plan could contain, but I saw what appeared to be sufficient space within the communal kitchens for appropriate refuse and recycling facilities to be provided. Details of such facilities and the regularity with which they would be emptied and disposed of could be set out in a management plan, required by condition to be approved and implemented within a reasonable timescale.
27. It would therefore be possible to appropriately control refuse and recycling facilities and collection arrangements through a condition attached to any grant of planning permission. In this regard, it would be possible for the HMOs to avoid conflict with part (m) of Policy LP26 of the RLP which requires development to provide appropriate facilities for refuse and recycling.

Other Matters

28. The appellant has claimed housing delivery test results show the council has provided 59% of its required number of houses over the last three years. The council failed to clarify its position in this regard. If this is the case, as set out at paragraph 11 of the National Planning Policy Framework (the Framework), it would mean the policies which are most important for determining the deemed planning applications would be out of date and that 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 taken as a whole.
29. I have found the appellant's proposed changes to the HMOs would fail to provide suitable living conditions for future occupants on account of a lack of acceptable communal facilities and cycle storage facilities. The level of harm caused to the living conditions of existing occupants is significant, as would be the harm which would be caused to future occupants if the proposals were adopted. I therefore attach substantial weight to that harm.
30. The proposals would provide 2 large HMOs with accommodation for a combined minimum of 14 people. They would, therefore, contribute toward meeting the need for housing. The properties are located within a town centre location, close to a range of services, and provide lower cost accommodation for people who cannot afford independent flats and houses. These are modest benefits to which I assign moderate weight.
31. Paragraph 60 of the Framework advises that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and the needs of groups with specific housing requirements are addressed.

However, paragraphs 126 and 130 explain that the creation of high quality places is fundamental to what the planning process should achieve, where development should provide a high standard of amenity for existing and future users. For the reasons set out above, the developments would not provide such a standard of amenity, so would not comply with the Framework in this regard.

32. Taking the above into account, and all other matters raised, it is sufficiently clear to me that the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits of the developments when assessed against the policies in the Framework taken as a whole.

Conclusion on the deemed applications for planning permission

33. The HMOs provide poor living conditions for existing occupants on account of the lack of suitable communal facilities, cycle storage facilities, and refuse and recycling facilities. The appellant's proposals to address these matters would be insufficient to provide suitable living conditions for future occupants, other than in the case of refuse and recycling facilities and arrangements, further details of which could be required by a condition attached to a grant of planning permission. The conflicts I have identified with policies in the London Plan and RLP mean that the developments conflict with the development plan as a whole.
34. There are no material considerations, including the Framework, which indicate my decisions on ground (a) and the deemed planning applications should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeals under ground (a) should not succeed and the deemed planning applications should be refused.

Ground (f)

35. Both enforcement notices require the removal of all partitions, fixtures and fittings that facilitate the use of each property as a large HMO, but the appellant claims it is not necessary for all partitions to be removed, apart from those which provide kitchen and bathroom facilities. I am unconvinced that the cramped layouts of rooms in each HMO would lend themselves well to office or other unspecified uses, as suggested by the appellant.
36. In both appeals, it is clear from the requirements of each enforcement notice that their intention is to remedy the breach of planning control by discontinuing the use of land in accordance with section 173(4)(a) of the Act. To achieve this, it is reasonable and necessary for all partitions which facilitate that use to be removed, in addition to all fixtures and fittings which also facilitate that use.
37. No evidence has been provided to convince me it would not be necessary to remove all partitions which facilitate the HMO use in each appeal, and I see no reasonable need for me to vary the requirements of each enforcement notice. The appeals under ground (f) therefore fail.

Conclusion on Appeal A and Appeal B

38. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notices with corrections and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

L Douglas

INSPECTOR