



Appeal Decisions

Site visit made on 1 September 2022

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal A Ref: APP/W5780/C/20/3262178

Appeal B Ref: APP/W5780/C/20/3262179

Land at 159 Clayhall Avenue, ILFORD, IG5 0NZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mrs Mina Limani and Appeal B is made by Mr Chandrakant Limani against an enforcement notice issued by London Borough of Redbridge.
- The notice, numbered E0309/19, was issued on 1 October 2020.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of property from dwellinghouse (Use class: C3) to a large house of multiple occupation (Use class: Sui Generis).
- The requirements of the notice are: (i) Cease the use of the dwelling as a large house of multiple occupation; (ii) Remove all fixtures and fittings that facilitate the use as a large HMO; and (iii) Clear all resultant debris.
- The period for compliance with the requirement is 6 months.
- Appeal A is proceeding on the ground set out in section 174(2)(a), (g) 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. Appeal B is proceeding on the ground set out in section 174(2)(g) only.

Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words "Use Class C3" in section 3.
2. It is directed that the enforcement notice is varied by the deletion of 6 months and substitution of 9 months as the time for compliance.
3. Subject to the correction and variation, the appeals are 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 matter

4. The Council's case is that the previous use of the appeal property was as a small HMO for up to 6 people. This is use class C4 and not C3 as stated in the notice. The notice is not required to list the previous use of the appeal property and I therefore direct that the reference to use class C3 be removed from the allegation. This will not cause injustice to either party as the appellant has made an appeal on ground (a) in any event, and has had the opportunity to make comments on the Council's case regarding the previous

use. The notice could have been corrected in the same way without causing injustice had an appeal also been brought under section 174(2)(b).

Ground (a) and the deemed application for planning permission

5. The main issues in this ground of appeal are the effect of the development on: the character and appearance and housing mix in the area and the living conditions of the occupiers of neighbouring properties; whether the development provides acceptable living conditions for the occupants of the appeal property; and the effect of the development on parking in the area.

Housing mix and character and appearance of the area

6. The appeal property is a large house in a predominantly residential area situated on a busy arterial route. It is not located within a Metropolitan, District or Local Centre as designated in the Redbridge Local Plan 2015 – 2030 ('the Redbridge Local Plan'). There has been a material change of use to a large House in Multiple Occupation with a sui generis use class. This change of use outside of a designated centre is in conflict with Policy LP6 which seeks, amongst other things, to ensure that large HMOs are located in areas with good transport accessibility, shops and services.
7. The change of use to a large HMO is materially different in nature to that of a family dwellinghouse as it facilitates an increased numbers of occupiers with associated increase in comings and goings, as well as an increase in the amount of refuse and potentially parking. These changes are harmful to the character of the area.
8. Whilst the car and cycle parking provision are not currently provided in accordance with the London Plan standards as required by Policy LP6, there is sufficient space on the site for these to be accommodated and this could be secured by way of a planning condition.
9. Overall, the development causes harm to the character and appearance of the area for the reasons set out above, and is in conflict with the Redbridge Local Plan.

Living conditions of neighbouring residents

10. The Council says that the lawful use of the property is for a small HMO for up to 6 people, and the appellant's evidence is that the property has been rented out since 2014 but has not provided details regarding the number of tenants or use at that time.
11. An increase in the number of occupants (to a large HMO) would increase the comings and goings and therefore general disturbance, as well as potentially significantly increase the amount of waste and associated parking. An additional 4 people is a significant number in one residential property, notwithstanding that one of the adjoining properties is in a commercial use as a dentist. The living conditions of other residents in the vicinity are harmed by the development, and by the additional number of occupants in the appeal property.

Living conditions of the occupiers of the appeal property

12. The Council's case is that inadequate provision and size of communal facilities has resulted in substandard residential accommodation.

13. The Redbridge Housing Design SPD 2019 ('the SPD'), which is a material planning consideration, requires a minimum space standard of 31 square metres for the combined floor area of living, dining and kitchen space in a 6 person HMO. The appellant has not provided its own figure for the combined floor area (and the plans do not show a scale) but has not disputed the Council's figure of 20 square meters. Indeed the plans show the overall floor area of the ground floor to be 83.2 square metres and the kitchen is roughly one quarter of the total area).
14. The communal area provided is therefore well below that set out in the space standards and the development is in conflict with the SPD, and Policy LS26 of the Local Plan. The development does not provide acceptable living conditions for the occupants of the appeal property and therefore causes harm.

Vehicle and pedestrian safety

15. The Council argues that the lack of secure sheltered cycle parking facilities and inadequate car parking leads to kerbside parking. However, as set out above the parking arrangements as required by the London Plan could be secured by way of condition and any harm caused by the development in relation to this concern could be adequately mitigated.

Conclusion on ground (a)

16. The development causes material harm to the living conditions of the occupants of the appeal property, as well as to the occupants of neighbouring properties and the character and appearance of the area. This is in conflict with the Redbridge Local Plan policies LP26 which seeks to promote high quality design and LP6 which seeks to protect the housing tenure and size across the Borough. As there are no other considerations which outweigh this conflict the appeal on this ground is dismissed and the deemed application for permission should not be granted.

Ground (g)

17. The appellants are seeking an extension of time for compliance to 12 months. However, a period of 9 months would allow for 6 months for the notice to be given to the tenants as required by the appellants with an additional 3 months for the works to take place. This is proportionate taking into account the harm caused by the development as set out above, and the fact that at least some of the tenants will need to find a new place to live.
18. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Zoë Frank's

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/W5780/C/20/3262178	Mrs Mina Limani
Appeal B	APP/W5780/C/20/3262179	Mr Chandrakant Limani