



Appeal Decision

Site visit made on 5 August 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th September 2022

Appeal Ref: APP/U5930/W/21/3287867

17 Maude Terrace, Walthamstow E17 7DG

- 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 Alvin Adams against the decision of Waltham Forest London Borough Council.
 - The application Ref 212698, dated 17 August 2021, was refused by notice dated 20 October 2021.
 - The development proposed is described as 'retention of HMO use of property'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my site visit the appeal property was already being used as a House in Multiple Occupation (HMO). I have therefore considered the appeal on the basis that planning permission is being sought retrospectively.

Main Issues

3. The main issues are:
 - (i) whether the development would conflict with the aims of national and local planning policy to create mixed and balanced communities; and
 - (ii) whether suitable living conditions would be provided for occupiers of the development with particular regard to internal communal space.

Reasons

Housing Mix

4. No 17 Maude Terrace is a two-storey mid-terraced dwelling located within a predominantly residential area. The area is covered by a Borough-wide Direction made under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 as Amended. The Direction stipulates that planning permission is required for development consisting of a change of use of a building to a use falling within Class C4 (houses in multiple occupation) of the Town and Country (Use Classes) Order 1987 (as amended) from a use falling within Class C3 (dwellinghouses) of that Order.
5. The National Planning Policy Framework (the Framework) seeks mixed and balanced communities. Paragraph 62 of the Framework states that the size,

type and tenure of housing needed for different groups should be reflected in planning policies.

6. Policy DM 5 (Housing Mix) of the DMP sets out a particular focus in the Borough on the provision of larger family sized homes (three bed plus). Policy DM 6 (Dwelling Conversions, Housing in Multiple Occupation and Buildings in Multiple Residential Occupation) of the London Borough of Waltham Forest Development Management Policies – Local Plan (2013) (DMP) includes at Paragraph A) ii) that the conversion of a larger home to a HMO falling within a C4 Use Class will not be permitted where it is located within a 'Restricted Dwelling Conversion, HMO and Building in Multiple Residential Occupation Ward', as shown in figure 7.1 of the DMP.
7. The justification for Policy DM 6 includes that the trend in dwelling conversions, HMOs and Buildings in Multiple Occupation has resulted in a loss of family-sized homes in the Borough which in turn has posed serious issues for maintaining a mixed housing offer in many neighbourhoods across the Borough.
8. The site is shown to be located within the 'High Street' 'Restricted Conversion Ward' as indicated on figure 7.1 of the DMP. The DMP indicates in such wards there is an overconcentration of HMOs. The development would directly conflict with the very specific requirements in Policy DM 6 to prevent the conversion of a larger home to a HMO in such areas. In that respect, the development has the potential to further increase the concentration of HMOs in the High Street ward and this would undermine the requirements in the development plan aimed at maintaining a mixed housing offer.
9. The appellant contends that the vast majority of properties within Maude Terrace are in single family use. Whether or not that be the case, no substantive evidence is before me to suggest that the circumstances in the High Street ward have substantially changed since the DMP was adopted. More specifically, it has not been demonstrated that there is no longer a requirement to prevent the conversion of family housing stock to HMOs in this ward.
10. I conclude, the development conflicts with the aims of national and local planning policy to create mixed and balanced communities. In that regard it would conflict with the specific housing mix requirements in Policies DM 5 and DM 6 of the DMP and the Framework.
11. The Council's reason for refusal in respect of this main issue also refers to Policy CS13 (Promoting Health and Well-Being) of the Waltham Forest Local Plan - Core Strategy (2012). Given that this policy is not concerned with housing mix, I have not identified conflict with it in respect of this main issue. Even so, this does not override the conflict with the other policies of the development plan identified above.

Living conditions

12. The Government's 'Technical housing standards - nationally described space standard' (2015) (the standard) does not provide a breakdown of minimum internal floor areas in respect of communal space.
13. However, Policy DM 6 of the DMP sets out amongst other things that HMOs are required to meet minimum internal space standards in tables 7.1 and 7.2 where applicable. Table 7.2 is the applicable table for 'Minimum kitchen/diner and living room sizes in HMOs and Buildings in Multiple Residential Occupation'.

The justification under policy DM 6 includes that it is important that HMOs provide satisfactory living conditions.

14. During my site visit, I was able to see that the property includes a common area with a dining table as well as separate kitchen facilities. Table 7.2 does not include this specific layout scenario but includes that a combined living room/kitchen/diner should have a minimum floor area of 22.5 square metres (sq m). Given the location of these facilities immediately adjoining each other within the host property, I consider it reasonable to use this figure for the purposes of my assessment.
15. The Council's delegated report suggests that the kitchen in the host property has a floor area of 9 sq m and that the common area has a floor area of 11 sq m. On this basis the combined area of these communal spaces is 20 sq m. Therefore, there is a marginal shortfall in the provision of living room/kitchen/dining space when considered against the 22.5 sq m figure in table 7.2. Being mindful that the floor areas under table 7.2 of the DMP are minimum requirements, I am concerned that the development does not provide satisfactory living conditions for a HMO with 6 bedrooms. The appellant has not provided any alternative measurements or calculations to dispute the communal floor areas provided by the Council.
16. The Waltham Forest Urban Design Supplementary Planning Document (2010) (Urban Design SPD) also sets out 'General Size Standards' and suggests that for a 6 person dwelling, Kitchen/Dining/Living areas should measure 33 sq m. I attach more weight to the identified conflict with the Policy DM 6 given this is an adopted policy in the development plan. However, the greater floor area requirements set in the guidance in the SPD, further persuades me that even a marginal shortfall in relation to the requirements of the development plan would not be acceptable.
17. I conclude, the development does not provide suitable living conditions for its occupiers with particular regard to internal communal space. In that regard, the development conflicts with the minimum floor space and health and well-being requirements in Policies DM 6 and DM 7 of the DMP and CS13 (Promoting Health and Well Being) of the Waltham Forest Local Plan – Core Strategy (2012), Policies DM5 and DM6 of the DMP. For the same reasons, it would also conflict with the guidance in the Urban Design SPD and paragraph 130 e) of the Framework which requires that developments provide a high standard of amenity for its users.
18. The Council's reason for refusal in respect of this matter also refers to Policy DM 5 of the DMP and Policy CS2 of the CS. Given that these policies primarily relate to matters of housing mix and choice and not minimum internal floor areas, they have not been material to my findings under this main issue.

Other Matters

19. The appellant contends that the property has been in use as a HMO for over 30 years and has also provided a copy of a licence dating to 2020 under Section 64 of the Housing Act 2004 for 'a HMO of not more than 6 persons occupying as 6 households'. However, licensing matters for HMOs are separate to planning legislation. Furthermore, no substantive evidence has been provided to demonstrate that the use of the dwelling as a HMO has become lawful by reason of the passage of time, for example in the form a lawful

development certificate. Therefore, I have assessed the appeal on the basis that planning permission is required.

Conclusion

20. The development conflicts with the aims of national and local planning policy to create mixed and balanced communities. Furthermore, the development does not provide suitable living conditions for its occupiers. In these respects, the development would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

M Russell

INSPECTOR