



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: 23rd September 2022

Appeal Ref: APP/U5930/W/21/3288003

163 Winchester Road, Chingford E4 9JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Gerard Flynn - True Pub Group against Waltham Forest London Borough Council.
 - The application Ref 212625, is dated 11 August 2021.
 - The development proposed is described as 'change of use from C3 residential to C4 HMO (small HMO)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is against the Council's failure to determine the planning application within the relevant statutory period. The Council's statement of case sets out the reasons that it would have refused planning permission had an appeal not been lodged. I have had regard to these reasons in defining the main issues.
3. The evidence before me indicates that the appeal property is already in use as a House in Multiple Occupation (HMO). On that basis, I have considered the appeal on the basis that planning permission is being sought retrospectively.

Main Issues

4. 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 space and external storage.

Reasons

Housing Mix

5. No 163 Winchester Road 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.

6. 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.
7. Policy DM 5 (Housing Mix) of the London Borough of Waltham Forest Development Management Policies – Local Plan (2013) (DMP) sets out a particular focus in the Borough on the provision of larger family sized homes (three bed plus). Policy CS2 (Improving Housing Quality and Choice) of the Waltham Forest Local Plan - Core Strategy (2012) (CS) seeks amongst other things to resist the loss of any existing larger homes (3 bedroom or more).
8. Tables 12 and 13 in the London Borough of Waltham Forest - Authority Monitoring Report 2020/21 indicate that in terms of new dwellings built in the five-year period up to 2020/21 only 19% were 3 bed or larger, and that this fell significantly below the target for 50% of new homes to be of this size. In the absence of any alternative statistics, this is persuasive in terms of there being a continuing need to protect existing housing stock of this size in the Borough.
9. Policy DM 6 (Dwelling Conversions, Housing in Multiple Occupation and Buildings in Multiple Residential Occupation) of the 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. The DMP indicates in such wards there is an overconcentration of HMOs. 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.
10. The site is shown to be located within the 'Chapel End' 'Restricted Conversion Ward' in figure 7.1 of the DMP. Therefore, the development would directly conflict with the very specific requirement at Policy DM 6 ii) to not permit the conversion of a larger home to a HMO in such areas. The development would further increase the concentration of HMOs in the Chapel End ward and would undermine the requirements in the development plan aimed at maintaining a mixed housing offer including a sufficient stock of family-sized homes.
11. The Council's statement of case also refers to Policy H9 (Ensuring the best use of stock) of the London Plan (2021). This policy states amongst other things that Boroughs should take account of the role of HMOs in meeting local and strategic housing needs. However, given the specific circumstances within the Chapel End ward and the conflict with the above identified policies of the development plan, a further concentration of HMOs would not accord with the area's strategic housing need in this location.
12. Paragraph A) i) of Policy DM 6 confirms that the conversion of a larger home to a HMO will not be permitted where it has a gross original internal floor area (GIA) of less than 124 square metres (sq m). The planning application form

suggests a GIA of 126.1 sq m but the Council contends that the original GIA is significantly lower than this at 80 sq m once extensions are discounted. I do not have any conclusive evidence in terms of floor area measurements. In any case, given that I have already found that the proposal conflicts with paragraph A) ii) of the policy, it is not necessary to reach a definitive view on this matter.

13. 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, Policy CS2 of the CS and the Framework.

Living conditions

14. The Council contends that only one of the five bedrooms would have a floor area which complies with the minimum bedroom size requirements for a HMO in Table 7.1 under Policy DM 6 of the DMP. The more recently published The Government's 'Technical housing standards - nationally described space standard' (2015) (national space standard) sets out smaller minimum floor area requirements at 7.5 sq m for a room with one bedspace and 11.5 sq m for a double bedroom. In any case, I have not been provided with precise floor area measurements to demonstrate that all the bedrooms meet the minimum requirements of either the DMP or the national standard.
15. The Council contends that the combined floor area of the kitchen/dining and sitting area is 17.3 sq m and therefore below the minimum combined floor area for such communal spaces in HMOs of 22.5 sq m as set out in Table 7.2 under Policy DM 6 of the DMP. The appellant has not provided me with any detailed measurements or calculations to dispute this. Therefore, I am also concerned that the communal space would not be sufficient to provide satisfactory living conditions for occupiers of the HMO.
16. Waste storage facilities would need to be located to the front of the property to facilitate waste collection. I have seen the specific waste storage requirements for the property as set out in the Council's statement of case. Given, that the external space to the front of the property is modest in size and that no details have been provided to demonstrate that the waste storage requirements could be accommodated within this area, I cannot be certain that suitable waste facilities could be provided.
17. I am satisfied that there is scope to provide secure and covered cycle parking facilities to the rear of the property. The Council's suggested condition in this regard would adequately address this particular matter. Therefore, the proposal could comply with the requirement to prioritise the needs of sustainable transport modes in Policy DM14 (Sustainable Transport Network) of the DMP. In any case, this does not overcome my other concerns in respect of living conditions.
18. I conclude, it has not been demonstrated that the development provides suitable living conditions for its occupiers with particular regard to internal space and external waste storage. In these respects, the development conflicts with the minimum floorspace, health and well-being, high quality design and waste management requirements in Policy DM 6 (Dwelling Conversions, Housing in Multiple Occupation and Buildings in Multiple Residential Occupation) of the DMP and Policies CS2 (Improving Housing Quality and Choice), CS6 (Promoting Sustainable Waste Management and Recycling) and

CS13 (Promoting Health and Well Being) of the CS. For the same reasons, it would also conflict with the guidance in the Urban Design SPD, the national space standard and paragraph 130 e) of the Framework which requires that developments provide a high standard of amenity for its users.

19. Policy DM32 is referred to by the Council in respect of some of the matters covered under this main issue but has not been provided. Therefore, it has not been material to my considerations. Even so, this does not alter my conclusion in respect of the identified conflict with the other policies of the development plan identified above.

Other Matters

20. The appellant suggests that the HMO does not require parking facilities due to the public transport available in the area and that strict rules would be set by the landlord in order to protect neighbouring living conditions. Whether or not this would be the case, these are not matters which overcome the harm identified under the main issues.

Conclusion

21. 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 conflicts 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