

Appeal Decision

Site visit made on 20 September 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/G5750/W/22/3297816

7 Frobisher Yard, London E16 2GY

- 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 Grace Sun of Thecityrooms.com Ltd against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/03125/COU, dated 16 December 2021, was refused by notice dated 14 March 2022.
 - The development proposed is change of use from C3 Dwellinghouse to C4 small house of multiple occupation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the application form the appellant confirms that at the time of submitting the application the change of use had occurred. The Council also considered the application as such. This correlates with my observations on site. I have considered the appeal on that basis. I have therefore amended the description of development proposed in the banner heading to clarify this, without causing prejudice to any parties.

Main Issues

3. The main issues are;
 - The effect of the development on the supply of family sized housing within the Borough;
 - Whether the development provides appropriate living conditions for occupiers of the appeal property, with particular regard to outdoor space and means of escape; and
 - The effect of the development on living conditions of occupiers of neighbouring properties with particular regard to noise and disturbance.

Reasons

Loss of family sized accommodation

4. The appeal site comprises a spacious unit of residential accommodation within a larger building, in a predominantly residential area. The accommodation is provided over 3 storeys from ground floor up.

5. Amongst other things, policies S1, S6, H1, H3 and H4 of the Newham Local Plan¹ (the Local Plan) all seek to protect and/or increase family housing within the Borough. A specific objective of policy H3 is to ensure that houses in multiple occupation (HMO) provision is either purpose built or converted from premises other than family sized dwellings, and an objective of policy H4 is to protect 3 and 4+bedroom family housing. Within the amplification of policy H4 it is indicated that it is very clear from analysis of requirements that Newham will fail to provide enough family housing if it does not both increase the rate of new provision (as per Local Plan Policy H1) and hold onto existing family stock. The size and configuration of the accommodation subject of this appeal make it suitable for family occupation.
6. Notwithstanding the above, Policy H4 2.a.) outlines certain circumstances in which the conversion of 3+bedroom housing to other high quality conventional housing may be acceptable. All criteria must be met for policy compliance. Even if the development subject of this appeal was deemed to represent high quality conventional housing, it is noted that the property has a well-defined front entrance yard, and is not located above an existing, occupied commercial unit. It also has a private external courtyard. Furthermore, no external alterations have been proposed, and as such the development does not enhance the street-scene. For these reasons the development does not comply with the circumstances identified within Local Plan Policy H4.
7. Whilst the development has not resulted in the loss of a residential unit of accommodation, the allowance of this appeal would authorise the loss of a unit of 3-bedroom accommodation suitable for family use. The loss of even one such unit of accommodation would undermine the Councils' objective to retain family housing to meet the housing needs within the Borough.
8. No compelling evidence been submitted to indicate that there has been, or currently is, a limited demand for the change of use of single household dwellings to HMO's within the area.
9. For the above reasons, I conclude that the development has had a harmful effect upon the supply of family sized housing within the Borough. As such, and in respect of this main issue, the development is contrary to policies S1, S6, H1, H3 and H4 of the Local Plan. In this regard it also conflicts with policies GG4 and H10 of the London Plan², which amongst other things seek to ensure that homes meet identified needs.
10. Policy H8 of the London Plan relates to loss of housing so it is of no relevance to this appeal. Local Plan policy S3 contains the overarching strategic policies for the Royal Docks area, and does not indicate specific housing need by type. As such it has no relevance to this main issue. Local Plan policies SP1, SP2 and SP3 which seek to ensure; a high quality of development of design that is responsive to its context; and, healthy neighbourhoods, are also not relevant to this main issue. Paragraph 62 of the Framework indicates that planning policies should reflect the type of housing needed for different groups in the community. However, as this paragraph relates to the development of planning policies it is not relevant.

¹ London Borough of Newham - Newham Local Plan 2018 – A 15 year plan looking ahead to 2023 - 2018

² Mayor of London - The London Plan – The Spatial Development Strategy for Greater London – March 2021

Living conditions – occupiers of the property

11. The development subject of this appeal has resulted in the lounge being used to provide a fourth bedroom. In this case, direct internal access to the outdoor courtyard area serving the property can only be secured via this fourth bedroom. During my site visit I observed that the bedroom is accessible via a locked door. No compelling evidence has been put forward demonstrating that all occupiers of the property are afforded unrestricted access to this room or could access the courtyard beyond by other routes. Therefore, all occupiers of the accommodation would not have free and unrestricted access to the courtyard.
12. The provision of easily accessible private outdoor amenity space can contribute towards the delivery of quality homes and can benefit the health and wellbeing of occupants. Outdoor space a key element to quality of life and living conditions. I have been presented with no compelling justification for why such provision is not necessary for all occupiers of the HMO.
13. In the context of private open space, neither Policy D6 of the London Plan, or other identified development plan policies specifically refer to HMO's. However, London Plan Policy D6 does say that housing should have comfortable and functional layouts which are fit for purpose and meet the needs of Londoners.
14. The restricted access for some occupiers to the first-floor rear bedroom with an external door would result in a reduction in the number of exits available to all within the property. Albeit that building regulations relating to fire safety are controlled under separate legislation, it has not been satisfactorily demonstrated how occupiers of the development would be able to secure a suitable and convenient means of escape from the building in the event of a fire. On the information before me, I cannot be confident that a condition requiring details of fire safety measures and/or details of means of escape in the event of a fire, would be enforceable, implementable and/or effective.
15. Therefore, the development fails to provide appropriate living conditions for the occupiers of the appeal property with regard to outdoor space and means of escape. In this respect it is contrary to Local Plan Policies H1, S1, SP2 and policies D6 and D12 of the London Plan. These in part seek to improve housing quality, have convenient means of escape and provide sufficient outdoor space. Furthermore, the development conflicts with the objective of paragraph 126 of the Framework to ensure that development is of a high quality.
16. Policies H4, SP1 and SP3 of the Local Plan and policy D4 of the London Plan, do not relate to living conditions and therefore have no relevance to this main issue.

Living conditions – occupiers of neighbouring properties

17. The appeal site is located in one of several multi storey buildings around a large yard area. Although the buildings appear to predominantly be in residential use, there are a small number of waterfront businesses, including a café, which address the adjacent quay. The yard provides access to the residential properties via a number of ground floor entrances. Unlike many of the higher level apartments, which are served by a number of communal ground floor entrances, the accommodation subject of this appeal has a private front door.

18. Within the yard there is; an area of public seating; car parking provision; an open space; and, what appeared to be an access to an internal carparking area. A reasonable level of noise and activity would be expected from the normal use of all of these areas. Furthermore, and given the relatively high number of properties which are accessed via the yard area and the nearby waterfront businesses, a fairly significant level of activity and comings and goings both within and through the yard area would also be anticipated.
19. There are likely to be a greater frequency and range of comings and goings associated with up to six individuals residing at the property than would be generated by a single household. However, the general levels of activity and associated noise generated by the use of surrounding land and buildings, mean that any small increases resulting from the ordinary use of the development proposal would not clearly distinguishable.
20. Consequently, the development does not unacceptably harm the living conditions of neighbouring properties with regard to noise and disturbance. In this respect it would comply with the requirements of Local Plan Policies H1, SP1, SP3 and SP8 as well as Policies D3 and D14 of the London Plan where they seek to achieve quality neighbourhoods with appropriate amenity avoiding bad neighbour uses and unacceptable exposure to noise and disturbance and, to prevent problems associated with 'bad neighbour' uses. Furthermore, in respect of noise and disturbance, the development does not conflict with paragraph 130(f) of the Framework where it seeks a high standard of amenity for existing uses.
21. In respect of the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance, Local Plan policies S2, SP2, H3 and H4 are not relevant. Nor are policies GG1, GG3, GG4.

Other Matters

22. I have considered the benefit associated with the provision of more housing choice within the area, however given the scale of the development the benefit is limited.
23. Even if the development meets the internal space standards set out within the London Plan, this is a neutral factor.

Conclusion

24. I have found that the proposed development is harmful to both the supply of family housing in the borough and to the living conditions of occupiers of the property. Whilst I have also concluded that the development would result in no unacceptable effects upon the living conditions of the occupiers of neighbouring properties, the absence of harm associated with this consideration does not justify a different conclusion being reached regarding the acceptability of the development.

V Simpson

INSPECTOR