



Appeal Decision

Site visit made on 4 October 2022

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal Ref: APP/E5900/W/22/3299077

58 Buxton Street, London E1 5AT

- 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 Dr Yang Yang against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/21/02181, dated 30 September 2021, was refused by notice dated 26 November 2021.
 - The development proposed is erection of ground floor rear extension, erection of front porch, installation of 1no. skylight in the front slope of the roof and rear dormer extension. Change of use from C3 to C4.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant's name in the banner heading above is taken from the appeal form as it provides a fuller name than that provided on the planning application form.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposal on the supply of family housing in the borough; and
 - Whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to internal space and facilities.

Reasons

Supply of family housing

4. The appeal site is a mid-terrace property located in a largely residential area characterised by terrace properties of similar scale and appearance. The appellant has stated that the property currently stands as a 2-bedroom dwelling with a loft room. I observed that the property is arranged over three storeys and at the time of my visit the dormer extension had been completed and the former loft space was utilised as a bedroom, thereby resulting in the property containing three bedrooms.
5. The London Plan 2021 (LP) defines a habitable room as any room '*used or intended to be used for sleeping...*'. Given that the room is now utilised as a bedroom this is clearly the case here. Also, family housing is defined in the

Tower Hamlets Local Plan 2031 (2020) (THP) as houses and flats which contain three or more bedrooms. Thus, I consider the appeal property to be family housing.

6. THP Policy D.H7 sets out that a new house in multiple occupation (HMO) would need to satisfy a range of criteria. These include criterion 1.a that proposed development would meet an identified need, and criterion 1.b that the proposed HMO would not result in loss of existing larger housing suitable for family occupation. Also, part 4 of the THP Policy D.H2 sets out that development which involves the conversion of family homes will only be permitted when a 3-plus bed unit is retained in the new development. The supporting text for this policy explains that there is a shortage of family housing in the borough, and that part 4 of Policy D.H2 seeks to ensure that priority family housing is not unnecessarily lost through development. The Article 4 Direction removing permitted development rights to change from a C3 to C4 use across the borough further indicates the importance of safeguarding suitable family sized housing locally. Together this articulates the importance of protecting affordable family housing in Tower Hamlets.
7. Given the site's proximity to various workplaces and educational establishments in the area including the Royal London Hospital, the Queen Mary University of London and the London Metropolitan University, and the potential to meet the need of accommodation for a range of key workers, students and young professionals, within the context of the need for HMO type accommodation in London, I am persuaded of the need for the proposed HMO.
8. However, there is no substantive evidence presented to decisively indicate that the existing family sized property could not provide family housing to help meet local need. The proposed change of use of dwelling to a HMO would result in loss of the existing family sized unit, and no re-provision would be made in the development. Thus, the proposal would erode the supply of family housing in the borough, and conflict with criterion 1.b of Policy D.H7. As such, the proposal would fail to satisfy the required full range of criteria in THP Policy D.H7. Also, it would conflict with part 4 of THP Policy D.H2.
9. That the proposal would satisfy several other THP Policy D.H7 criteria, including 1.d high transport accessibility, does not negate the identified harm to family housing supply in the borough, nor the conflict with the policy as a whole.
10. Another appeal decision¹ that is cited by the appellant differs from the current proposal in several ways. It concerns another site in a different borough, and predates the current policy context. Also, the full details of the other case are not before me. This limits the equivalence of the other case to the current proposal. Moreover, the current appeal proposal has its own circumstances and I shall determine it on its own merits.
11. I therefore conclude that the proposal would harm the supply of family housing in the borough. As such, it would conflict with Policies D.H2 and D.H7 of the THP which seek, amongst other things, to prevent the loss of existing larger housing suitable for family occupation.

¹ APP/Z5060/A/11/2167184

Living conditions

12. THP Policy D.H3 requires development to demonstrate that, as a minimum, it meets with the most up-to-date LP space and accessibility standards. LP Policy D6 sets out that housing development should be of high-quality design and provide adequately sized rooms with comfortable and functional layouts which are fit for purpose.
13. While the overall internal floorspace of the development proposal falls slightly below that specified in the LP, given the larger than required external garden space, I agree that the overall floor space is acceptable.
14. Turning to bathroom provision for future occupiers of the proposed HMO, given the size of the bathroom and absence of an additional WC, the proposal would not meet the guidance in the East London HMO Guidance (HMOG) that a bathroom should be within one floor of all habitable rooms and have a bath. However, that said, while a useful guide, the HMOG is not adopted planning policy and compliance is not decisive in my assessment.
15. Furthermore, the bathroom and WC provision, as well as the proposed bedrooms and kitchen, would meet the Nationally Described Space Standards. While table 3.1 of LP Policy D6 specifies that the Gross Internal Areas (GIA) quoted for two or three storey dwellings includes space for one bathroom and one additional WC, it does not go as far as to say that an additional WC is an essential requirement, or specify a minimum bathroom size, in order to deliver high-quality design and adequately sized rooms.
16. Also, given the relatively modest number of likely future occupiers of the proposed three bedroom HMO, and that other rooms would meet or exceed the space requirements set out within LP Policy D6, I find that the lack of an additional WC, and the size and location of the bathroom, would not entail such a significant shortfall in facilities, as a whole, to result in unsatisfactory living conditions for future occupiers.
17. I therefore conclude that the proposal would provide satisfactory living conditions for future occupants. As such, it would accord with THP Policy D.H3 and LP Policy D6. Together these policies seek to ensure that development achieves a high standard of accommodation which meets minimum internal space standards.

Other Matters

18. The proposal would contribute to local housing supply in the form of a three bedroom HMO, accessible to local services and facilities, with associated socio-economic benefits to the area. Albeit tempered by the loss of accessible family accommodation. The scale of development limits the benefits of the proposal, which would not outweigh the identified harm to supply of family housing in Tower Hamlets.

Conclusion

19. The proposal would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

S Harrington

INSPECTOR