



Appeal Decision

Site visit made on 25 October 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/Y5420/W/22/3293956

80 Shelbourne Road, Tottenham, London N17 9XY

- 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 Spyros Karayiorghi (Easy Let Properties) against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/3066, dated 15 October 2021, was refused by notice dated 13 December 2021.
 - The development proposed is described as 'change of use from Dwelling to House of Multiple Occupancy HMO'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended site plans were submitted with the appeal. The changes show the provision of cycle parking to the front and rear and how this could be accommodated alongside refuse storage to the front. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought (Annexe M.2.1).
3. Notwithstanding that, in deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles'¹ and whether any prejudice would occur. The Council has not commented on the revision, although the changes are minor and do not evolve the scheme or change it in a material way. As such, I do not feel prejudice would occur if these plans were considered and have considered the proposal based on these minor changes.
4. I understand a Certificate of Lawfulness (CL) was granted² for single storey extensions and a dormer to the rear as well as rooflights to the front. On the site visit, I observed these were complete. Therefore, the subject of the appeal is the change of use. On the site visit, the property was evidently already

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

² HGY/2019/0623

occupied in this manner and as such is considered on a retrospective basis. This is confirmed in the planning application form.

5. The appellant makes reference to a fallback position whereby the change of use to a House in Multiple Occupation (HMO) could be carried out without the need for planning permission. However, I am given to understand that an Article 4 Direction is in place which covers the area within which the appeal site is located that has rescinded this permitted development right. Regardless of the reasons for the Direction, planning permission is therefore required and the fallback position carries no weight in the determination of this appeal.

Main Issues

6. The main issues are as follows:

- Whether the change of use facilitates a car-free development that encourages walking, cycling and the use of public transport;
- The effect of the development on the living conditions of occupiers of neighbouring dwellings;
- Whether the development provides suitable living conditions occupiers of the appeal property; and
- Whether the development provides suitable provision for cycle parking and refuse storage.

Reasons

Whether or not the proposal would facilitate car-free sustainable development

7. The appeal site has no off-street parking facilities. During my site visit, I saw that the site is located within a Controlled Parking Zone (CPZ) for event days at the Tottenham Hotspur Stadium. On-street parking is reserved on these days for permit-holders only Monday – Friday 5.00 – 8.30pm and Saturday, Sunday and Public Holidays Noon – 8.00pm. Furthermore, the area where the appeal site is located has a Public Transport Accessibility (PTAL) rating of 2 indicated to be a 'poor' level.
8. At the time of my visit, which was at circa 4pm on a Tuesday, parking pressure was high, with few spaces available to park. It is likely that during late afternoon and evening times there would be many more vehicles looking to park as people return from work. This would align with anecdotal evidence from local residents who argue parking pressure is already high.
9. Policy T6 of the LP states car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking ('car-lite'). Given the low PTAL score, and potential for six residents, I agree that it is likely some occupiers of the HMO may own a car. A 'car-lite' scenario would therefore exist, and some parking should be provided in line with minimum standards. There is no off-street parking proposed. However, the appeal is presented as car free. Although I appreciate that as a 'family dwelling' there would also be no parking provided, the HMO would likely include six unrelated people old enough to drive rather than parents with children. As such, the nature of the HMO would differ in that sense.

10. Policy DM32 (Parking) of the DPD supports proposals for new development with no on-site parking in CPZs, although the sub-text to this policy sets out that developments without parking are only likely to be viable in areas with a PTAL rating of 4 or above and where a CPZ is in existence.
11. In order to ensure that residents of the HMO would not be entitled to apply for a resident's parking permit or visitor permit voucher and therefore be car-free, the transport consultee comments advise that the appellant would be required to agree this via a section 106 agreement and make a contribution of £4,000 towards the amendment of the Traffic Management Order (TMO). Although I acknowledge the comments of the appellant that they consider it unlikely future occupiers would own a car, the legal certainty provided by a planning obligation makes it the best means of ensuring that these arrangements are effective. In the interests of certainty this would need to be in place before planning permission is granted. The necessity for a S106 car-free planning obligation is made clear in the delegated report. However, there is no agreement before me.

Therefore, in the absence of a suitable planning obligation, the development would not be car-free and would therefore not encourage the use of walking, cycling or the use of public transport over private vehicles. In that regard it would conflict with the sustainable transport requirements of Policies T6 of the LP 2021 and DM32 of the DPD. These offer support for car-free development in CPZs with a PTAL rating of at least 4, among other things.

Living Conditions of Neighbouring Residents

12. The appeal site comprises a mid-terrace, two-storey dwelling with single-storey ground floor and dormer extensions. The local area is residential in character, with Shelbourne Road comprised predominantly of long terraces to either side of the street. The development seeks retrospective permission for a change of use to a HMO. This would be for six people rather than seven as initially indicated given the licencing restrictions drawn to my attention.
13. The property could legally be occupied by a large family. Six unrelated residents occupying an HMO are likely to pursue lifestyles that would be uncoordinated compared to a family, which would be more likely to spend time together. It is reasonable to assume this would lead to more comings and goings throughout the day and evening. However, there is no robust evidence before me to demonstrate that this increased level of activity is detrimental to the occupiers of neighbouring residential properties or that people living in the HMO are or would be particularly noisy.
14. I note the Council has further concern regarding a potential proliferation of HMOs in the area which could exacerbate noise and disturbance issues cumulatively. It is claimed that there are nine HMOs on Shelbourne Road, although I have little supporting information to substantiate this. The appellant has provided evidence that alongside the appeal site, only one other property is licenced as an HMO on Shelbourne Road. Although I acknowledge the anecdotal evidence from interested parties that there are more than this, based on the information submitted, the proposed development would not result in an overconcentration of HMOs.
15. To conclude, the change of use would not have an unacceptable effect on the living conditions of occupiers of neighbouring properties, having regard to noise

and disturbance. This would accord with Policies DM12 and DM17 of the Council's Development Management DPD (adopted July 2017) (DPD), Policy SP2 of the Local Plan Strategic Policies (SP) (adopted March 2013) and Policy D6 of the London Plan (LP) (adopted March 2021) which seek, amongst other matters, to ensure HMOs do not give rise to any significant adverse amenity impacts on the surrounding neighbourhood.

Living Conditions of Occupiers

16. The ground floor has a kitchen with a dining area towards the rear and includes a worktop on each side, both of which have hobs, sinks and appliances such as fridges and microwaves. It is unlikely that all residents would require use of the kitchen/dining area simultaneously, although from my observations on the site visit it was large enough to allow multiple people to prepare food, cook or congregate at the same time. Furthermore, there is a rear garden which was suitable and large enough for socialising, and it is reasonable to expect that occupiers of an HMO are more likely to be living independently of one another. They may therefore choose to spend more time in their private bedroom spaces.
17. From the evidence before me, there is no requirement within development plan policies to require communal facilities to be provided and there is little supporting information provided by the Council to explain why the kitchen/dining area is not suitable. As such, there is suitable living conditions for occupiers of the HMO in accordance with Policies DM12 and DM17 of the SP, SP2 of the DPD and D6 of the LP. These seek, among other things, to ensure HMOs provide high quality accommodation, including internal space standards.

Cycling and Refuse Storage

18. The amended site plan (Drawing No. 09 Rev C3) indicates two 'Sheffield' cycle parking stands are located to the front and one to the rear. I observed on the site visit the front stands were in situ, although the stand to the rear was not. The Council advise on the requirement for one cycle parking space per occupant due to the Sui Generis use class, which I note is not disputed.
19. The cycle parking is of standard design and there is nothing to indicate it would not be secure or fit for purpose. I note that the Council states it had not had the chance to consult their transportation team and as such, were I minded to allow the appeal, further details could be secured by condition. Accordingly, I see no reason to conclude that the HMO could not provide suitable cycle parking.
20. Policy DM17 of the DPD requires adequate and convenient refuse storage and collection while D6 of the LP requires adequate and easily accessible storage space that supports the separate collection of dry recyclables (for at least card, paper, mixed plastics, metals, glass) and food waste as well as residual waste.
21. The amended site plan shows 360-litre refuse and recycling bins and a smaller food waste box. The officer report highlights the difficulty in accommodating both refuse and cycle storage to the front although I observed both in place at the time of my visit. There is little information before me to substantiate this concern. The refuse bins were to the front like other properties and their size would likely accommodate six residents. Further information could have been secured by condition were I minded to allow the appeal on other matters.

22. Taking the above into account, the proposal would provide suitable arrangements for cycle and refuse storage, in accordance with Policies D6 and T5 of the LP, DM12 and DM17 of the DPD and SP2 of the SP. These seek to ensure development provides cycle parking that is fit for purpose, secure and well-located adequate and convenient refuse storage and collection.

Other Matters

23. There is some disagreement regarding the original size of the dwelling, which the Council consider is less than the required 120m². Similarly, the Council's officer report cites harm with the loss of a family sized home. However, neither is given as a reason for refusal, and I have little substantive information either way. Given I am dismissing the appeal on other grounds I have not considered these matters further.

Planning Balance and Conclusion

24. The Council has informed that 2020 Housing Delivery Test figures show new housing in the Borough to be less than 75% of that required over the previous three years. Paragraph 11 of the Framework is therefore engaged and indicates that relevant development plan policies are out of date. Planning permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
25. I have found that the proposal would provide acceptable living conditions for occupiers of the HMO and neighbouring dwellings and would provide suitable arrangements for refuse and cycle storage. However, in the absence of a suitable planning obligation, the development would not facilitate car-free development in order to encourage the use of public transport, cycling and walking. This would conflict with the sustainability aims of the development plan and Framework. This is a matter which weighs heavily against the proposal, and which in my judgement significantly and demonstrably outweighs the identified benefits of the proposal when assessed against the policies of the Framework.
26. Therefore, I conclude that this appeal should be dismissed.

C McDonagh

INSPECTOR