



Appeal Decision

Site visit made on 26 September 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Appeal Ref: APP/W5780/C/20/3261695

Land at 38 Norfolk Road, Seven Kings, Ilford IG3 8LQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Sharafat Hussain against an enforcement notice issued by the Council of the London Borough of Redbridge.
- The notice, numbered E0550/19, was issued on 24 September 2020.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of property from dwellinghouse (Use class: C3) to a large house of multiple occupation (Use class: Sui Generis).
- The requirements of the notice are:
 - (i) Cease the use of the dwelling as a large house of multiple occupation; and
 - (ii) Remove all fixtures and fittings that facilitate the use as a large HMO; and
 - (iii) Clear all resultant debris.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990, as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Preliminary Matters

2. The London Plan 2021 (the LP) was published by the Mayor of London on 2 March 2021. Accordingly, the parties were invited to comment on the implications of this for the appeal and therefore, in reaching my decision, I have had regard to the policies of the LP.

The appeal on ground (a)

3. The appeal on ground (a) is that planning permission ought to be granted for the matters alleged in the notice. In doing so, the appellant has confirmed that they seek permission for a six bedroom large house of multiple occupation for up to seven adults and three minors.
4. Accordingly, the main issues are:
 - Whether the development is suitably located for a house of multiple occupation (HMO);
 - Whether the development provides satisfactory living conditions for occupants, with regard to space, outlook and light;

- The effect of the development on the character of the area and the living conditions of neighbouring residents, with particular regard to noise, disturbance and the fear of crime; and,
- Whether the development provides suitable arrangements for cycle and car parking.

Location

5. Policy LP6 of the Redbridge Local Plan 2015-2030 (the RLP) sets out the Council's approach to the conversion of dwellings to HMOs. To gain support, proposals must exceed a set floor area; be located in a Metropolitan, District or Local Centre; should not result in a significant loss of character or amenity through increased traffic, noise and/or general disturbance; and, provide appropriate car and cycle parking provision. The Council state that the purpose of RLP Policy LP6 is to protect the existing housing stock, particularly family homes.
6. The appeal property is a large mid-terrace house in a predominantly residential area. It is a short distance from rail and bus services at Seven Kings, but is located in an area with a PTAL rating of 2 for access to public transport, on a scale of 1 to 6 with 6 being excellent. However, it borders an area with a PTAL rating of 3. I also note the appellant's assertion that there is demand for HMO accommodation in the local area.
7. Nevertheless, the appeal property is not located within a Metropolitan, District or Local Centre as designated in the RLP. There is no dispute that there has been a material change of use from a larger house to a large HMO with a sui generis use class. This has resulted in the loss of a family home. Therefore, the development is not in a suitable location for a HMO and as a consequence there is a direct conflict with RLP Policy LP6.

Living conditions of occupants

8. The Redbridge Housing Design Supplementary Planning Document 2019 (the SPD) states that all HMOs must provide high standards of accommodation. It sets out minimum floorspace standards for communal parts of the building used for kitchens, dining and living rooms. The Council consider that the property could accommodate up to 16 people and has calculated the required space standards accordingly. However, the appeal on ground (a) is for a six bedroom HMO to accommodate seven adults and three children, 10 occupants in total. In the event that the appeal was to succeed, an upper occupancy limit could be controlled by condition.
9. Therefore, for 10 occupants the SPD requires a minimum space standard of 11.5sqm for the kitchen area. The Council calculate the ground floor kitchen area to be 29.51sqm and the first-floor kitchen area to be 5.82sqm. This would comfortably meet the standard set out in the SPD.
10. The Council advise that, in accordance with the standards set out in the SPD, a 16 person HMO should provide 51sqm of communal facilities (kitchen, living room and utility room, etc.), but that the proposal would only provide 49.93sqm. No communal space requirements have been specified for a 10 person HMO, as is proposed. The proposal would provide a play room, prayer room and a dining room on the ground floor, along with a living room on the second floor as communal rooms. Whilst I have not been provided with the

measurements of the floor areas of these spaces, either individually or combined, they are sizable rooms and would appear to offer sufficient space for the proposed number of occupants.

11. However, the playroom and prayer room lack any external windows and therefore these rooms lack sufficient outlook and natural light. In addition, the only external window to the dining room is a skylight in the roof. This does not offer a good outlook. Consequently, the conditions within these rooms, owing to a lack of light and/or insufficient outlook, are gloomy and oppressive, resulting in an unsatisfactory standard of accommodation.
12. I acknowledge that the property has been issued with a draft mandatory licence for a HMO to accommodate up to 12 people and it has also achieved certification for emergency lighting, fire detection and alarm systems. However, these relate to regulatory regimes that are separate from the planning system and relate to different considerations. Therefore, these matters do not detract from the unsatisfactory standards of accommodation that I have found.
13. For these reasons, I conclude that the development fails to provide a satisfactory standard of accommodation for occupants, significantly harming their living conditions, with regard to outlook and light. Whilst the development would appear to offer sufficient communal space, when assessed against the Council's standards, I have found that much of this space would offer an unsatisfactory standard of accommodation. Therefore, the development is in conflict with Policy LP26 of the RLP which, among other things, requires high standards of accommodation for housing in terms of size, quality and arrangement of internal space.

Character and living conditions of neighbouring residents

14. Norfolk Road is a residential street characterised by spacious Edwardian terraced housing. The Council is concerned that the appeal scheme results in an increased number of occupants compared to a single family dwelling, with adverse effects for neighbouring residents in terms of noise and disturbance from increased activity and general comings and goings from the property.
15. Occupants of a HMO will generally live more independently than those forming part of a family unit, giving rise to a greater frequency and variation in movement patterns to and from the property. It is also likely that there could be a greater number of visitors, associated with the unrelated identities of the occupants. Furthermore, as most of the occupants will be adults, there are likely to be more comings and goings than a single family with children, particularly later into the evening.
16. However, a greater number of occupants is not of itself evidence that a larger HMO would result in harm to the living conditions of neighbouring residents or the character of the area. I am also mindful that the proposed number of occupants is to be seven adults and three children, which could be controlled by condition. Such impacts will largely depend upon the individual lifestyles of occupants and how the property is managed.
17. The appellant has provided a management plan to support the appeal and the Council accepts that this appears to broadly comply with the requirements of the SPD. I agree that the wording of the Management Plan, and compliance with it, could be effective in terms of deterring excessive noise and other

antisocial or unreasonable behaviour and ensuring the maintenance of the property, including the storage of waste. In addition, I have not been provided with any evidence of complaints in relation to noise, disturbance or antisocial behaviour emanating from the property.

18. There are no external alterations proposed to the property and therefore its visual appearance as a large Edwardian terraced house would be unaltered by the development. Furthermore, despite previous investigations and an early morning search of the property by the Home Office Officials, I have been provided with no evidence to substantiate the Council's claim that the ongoing use of the property as a large HMO would raise the fear of crime in the area.
19. Bringing these points together, on balance, I find that the development would not result in harm to the character of the area or the living conditions of neighbouring residents, with particular regard to noise, disturbance and the fear of crime. Therefore, I find no conflict with Policies LP6, LP24 or LP26 of the RLP which requires that there is no significant loss of character or amenity as a result of increased traffic, noise and/or general disturbance, seeks to avoid adverse impacts upon the amenity of neighbouring occupiers, and ensures that the health of residents is not jeopardised through exposure to noise and other sources of pollution.

Cycle and car parking arrangements

20. To promote sustainable modes of transport, policies LP22 and LP23 of the RLP require the provision of cycle and car parking spaces to be provided in accordance with the standards set out in the LP. On this basis, the Council considers that the proposal would generate a requirement for one secure, sheltered and accessible cycle space per bedroom. This appears reasonable and aligns with the standard set out in Policy T5 of the LP.
21. Notwithstanding its original reasons for refusal, the Council is now satisfied that this provision could be secured by condition, in the event that planning permission was to be granted. I see no reason to disagree on this point.
22. With regard to car parking, the Council is concerned that the proposal will result in the potential for more frequent multi-modal movements to and from the property with a higher vehicle trip rate and parking demand, resulting in pressure for on-street parking in the surrounding areas. RLP Policy LP23 seeks to achieve the parking standards set out in the LP. In this instance the Council have calculated a requirement of a maximum of one space per dwelling, as defined by LP Policies T6 and T6.1, which together advocate a 'car-lite' approach to parking, providing the minimum necessary parking in order to promote more sustainable forms of transport and reduce congestion.
23. I observed that Norfolk Road was heavily parked at the time of my visit which occurred at lunchtime on a weekday when a number of residents would have been out at work. Such was the prevalence of on-street parked vehicles that long sections of the road were reduced to a single lane of traffic, requiring drivers to give way to oncoming vehicles. This parking demand is likely to increase later in the afternoon and into the evening when residents return from work. There is no evidence to suggest that my observations are untypical. Thus, the evidence suggests that there is currently a high demand for on-street parking.

24. With seven adults living at the property, the development is likely to generate parking demand in excess of the maximum standard, therefore occupants are likely to park their cars on the street and in doing so would harmfully exacerbate parking demand and capacity. Visitors would also add further to this demand for parking. Despite this, I have no details of how car ownership would be addressed by the appellant or any other form of mitigation to overcome these harmful effects.
25. The application of a maximum parking standard is to discourage car ownership. However, in this case, whilst it could be possible to reduce parking provision on site to meet the maximum standard, I remain concerned that the increased number of occupants resulting from the HMO use would result in an unacceptable increase in the level of parking demand. Therefore, whilst it might be possible to comply with the parking standards in strict terms, this would not overcome the harm I have identified, which stems from the intensification of the use of the property as a HMO and the likely resulting increase in parking demand.
26. In reaching this view, I acknowledge that the site has a PTAL rating of 2, at the lower end of the scale, and therefore it does not benefit from good access to public transport, despite its proximity to rail and bus services at Seven Kings. This suggests that occupiers of the HMO are more likely than not to own their own car to gain access to local services and facilities, and for commuting.
27. Bringing these points together, in relation to cycle parking I have found that the required provision could be secured by condition and so on this point there would be no conflict with RLP Policies LP22 or LP23, or Policy T5 of the LP. However, I find that the development does not provide suitable arrangements for car parking. Therefore, it does not accord with the objectives of Policies LP6, LP22 and LP23 of the RLP and Policies T6 and T6.1 of the LP, the aims of which are set out above.

Other matters

28. To support their case, the appellant has drawn my attention to a previous appeal decision relating to a HMO. However, this decision appears to be in relation to a case in Poole and therefore will have been subject to a different policy framework. Consequently, this other decision is of little relevance to the case before me.
29. I acknowledge the appellant's assertions that the site lies within Flood Zone 1, an area with a low probability of flooding, and that the site would be unaffected by contamination. I also accept that the proposal would boost the supply of residential accommodation in the local area. However, these matters are not of sufficient weight to overcome the harm I have found in this case.

Conclusion

30. I have not found harm in terms of the living conditions of neighbouring residents and consider that provision for cycle parking could be secured by condition. Nevertheless, this does not overcome the above conclusions in relation to the location of the HMO, the unsatisfactory living conditions for occupants of the development, and the lack of suitable arrangements for car parking.

31. The enforcement notice which will be upheld will interfere with the tenants' rights under Article 8 of the Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. I conclude, having regard to the harm that I have found, that the requirements of the notice and the time available to tenants to seek alternative accommodation would be reasonable and would not result in a disproportionate burden.
32. Accordingly, I have found the proposal to be contrary to the policies of the development plan and no material considerations of sufficient weight have been advanced to justify a decision other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J M Tweddle

INSPECTOR