



Appeal Decision

Site visit made on 12 October 2022

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/Y5420/W/22/3293187

79 Frobisher Road, Hornsey, London, N8 0QU

- 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 Paul Shinwell against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/3183, dated 15 October 2021, was refused by notice dated 12 January 2022.
 - The development proposed is the change of use from residential dwelling to C4 HMO. No physical alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is no planning permission for the use of the property as a House in Multiple Occupation (HMO). Separate enforcement proceedings are progressing in parallel with this appeal, to be determined by a different Inspector. Accordingly, this decision is in relation to the planning appeal alone.
3. The issuing of an HMO licence by the Council in August 2020 concerns separate legislation and is not equivalent to a grant of planning permission.
4. In November 2013, the Council introduced an Article 4 Direction which removed the permitted development right to convert a single dwelling unit into a small HMO. The appeal site is located within the area covered by this direction. Therefore, the criteria set out in Policy DM17 Haringey's Development Management Development Plan Document 2017 (DPD) is relevant for this appeal.

Main Issue

5. The main issue is the effect of the proposed development upon the supply of smaller family housing.

Reasons

6. The appeal site is a three storey mid-terraced house situated in the middle of a residential street of largely terraced houses of a character which would be likely to include, and be suitable for, family occupation. It has been enlarged with ground floor and dormer extensions. The proposal would change the use of the building to an HMO, with bedrooms on the first and second floors along with communal living areas on the ground floor. At the time of my site visit, I

saw that the development of the use of the dwellinghouse as an HMO had already commenced and that this application has been submitted retrospectively.

7. Policy DM17 part A) a) of Haringey's Development Management Development Plan Document 2017 (DPD) states that proposals for the conversion of larger homes to HMO will only be permitted where the gross original internal floor space of the existing dwelling is greater than 120m². The supporting text for this policy, whilst recognising the need for HMO accommodation, highlights that many HMOs in Haringey reduce the availability of smaller family housing, for which there is significant need. This policy accords with paragraph 62 of the National Planning Policy Framework 2021 (the Framework), which advises that the size, type and tenure of housing needed for different groups in the community, including families with children, should be assessed and reflected in planning policies.
8. The DPD does not define what is meant by gross original internal floorspace. However, I interpret "original" as having the same meaning as in Article 2(1) of the GPDO¹ i.e., as existing on 1 July 1948 or if built after that date, as it was originally built. Otherwise, a smaller dwelling could be enlarged to above 120 m² through extensions prior to applying for planning permission for conversion to an HMO. This cannot be what the DPD intended, as it would circumvent the relevant criterion in Policy DM17 part A) a) which in part seeks to protect smaller family homes. Given that the later enlargements do not form part of the dwelling as it was originally built, they cannot be considered as part of its gross original internal floorspace. It is agreed between the Council and Appellant that the dwelling had a gross original internal floorspace which is below 120 m², albeit they take a conflicting view on the precise measurements. Accordingly, it is agreed that the property does not meet the minimum size threshold for conversion to an HMO set out in DPD Policy DM17 part A) a).
9. The property is therefore of a size that the DPD seeks to retain as smaller family accommodation, so as to meet the local need for such housing, for which the DPD confirms there is a significant need. The property is located in an established residential area and the size and configuration of the house and garden mean that it would be suitable for family accommodation including those with young children. The use of the appeal site as an HMO causes a net reduction in smaller family housing.
10. In conclusion therefore, the development has had an adverse effect on the availability of smaller family housing in the Borough by failing to accord with the relevant criterion in Policy DM17 DPD, which seeks, amongst other things, to resist the loss of family sized units.

Other Matters

11. My attention has been drawn to other appeal decisions which are considered to be similar to the proposal before me. Upon review, decision HGY/2020/1441 does not specifically consider the loss of a family sized unit in an area where there is a demonstratable need for such accommodation. Appeal decisions APP/Y5420/W/18/3192546 and APP/Y5420/W/17/3172817 are both concerned

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

with the conversion of single dwellings into flats and do not present sufficiently similar characteristics to find in favour of this appeal.

12. In relation to appeal decision APP/Y5420/W/20/3244356, I acknowledge that there are similarities in this decision to the appeal which is before me. However, the Inspector focused on the interpretation of how the original GIA should be calculated and the quality of the HMO accommodation, as opposed to the effect of the conversion on the supply of smaller family homes. They did not specifically consider the loss of a family sized unit in an area where there is a demonstrable need for such accommodation. While I am mindful of the need to maintain a consistent approach to similar decisions, in the case before me, it is clear that there remains a need for smaller family homes in the borough. I have not been provided with any evidence that substantiates that there is not such a need. Additionally, and as discussed above, I follow the approach set out in Article 2(1) of the GDPO regarding the calculation of gross original internal floor space and find that this appeal does not reach the requisite threshold. I acknowledge that other Inspectors may have allowed similar appeals where there has been a shortfall in reaching the 120sqm threshold, based on their own assessment of the materiality and significance of this deficit. However, I find that a hard threshold needs to be held to secure and protect smaller family homes from creeping downward pressure and the incremental loss of such sized properties.
13. As such, I have considered these appeal decisions and having considered this appeal proposal on its own merits, and I consider that the change of use would result in the loss of smaller family housing, in conflict with DM17.

Conclusion

14. For the above reasons the development would harm the supply of family housing contrary to the development plan. The appeal is therefore dismissed.

S Lo

INSPECTOR