



Appeal Decision

Site visit made on 8 November 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30th November 2022

Appeal Ref: APP/W5780/W/22/3302726

Jonos, 37 Cranbrook Road, Ilford IG1 4PA

- 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 O'Loughlin against the decision of London Borough of Redbridge.
 - The application Ref 3237/21, dated 28 July 2021, was refused by notice dated 31 January 2022.
 - The development proposed is the retention of the ground floor extension and addition of a three-storey extension above, for use as a large HMO (Sui Generis) for up to 13 people.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have corrected the name of the appellant stated in the application form to Mr O'Loughlin.
3. The description of development in the heading above has been taken from the planning application form. However, the appeal form states that the description of development has changed, and a different wording has been entered which accords with the Council's description of development in its decision notice. Neither of the main parties have provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given in the original application.
4. In Reason for Refusal No.1 the Council is unclear as to which properties are likely to be affected by the proposed development. In addition to No.43-45 Cranbrook Road, it is also assumed that the Council is also referring to No.1 York Road and No.1 York Place as these properties are identified in the officer report as being affected by the proposed development.
5. Planning permission was granted in 2020 to construct a two storey rear extension (ground floor plus two storeys) for a large House of Multiple Occupation (HMO) at the appeal premises. This would accommodate up to 11 people within 9 self-contained units with separate bathrooms and kitchens. This appeal proposal seeks to add an additional storey on top of the approved extension to accommodate a total of up to 13 people in single occupancy units.
6. A revised Proposed Ground Floor Plan Ref 301 Rev.P.06 was submitted with the appeal documentation. With regard to the 'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE* 1982, the revised floor plan indicates

changes to cycle parking and refuse storage. A doorway between the stair access to the HMO units and rear of the public house would be removed, a new pedestrian access onto York Place would be provided, the ground floor stairwell would be reduced in size, and the HMO bin storage area would be rearranged. To my mind these alterations would introduce potentially new issues including allowing those in the smoking area to exit directly onto York Place, there would only be one exit point from the HMO ground floor staircase, the entrance stairwell would be more restricted, and the HMO refuse area would be awkwardly laid out. These are matters which should be the subject of consultation with other parties. This revised plan could fundamentally change the development and other parties would be unfairly disadvantaged by my acceptance of this drawing. I will therefore base my decision on the proposed ground floor plan submitted with the original application Ref 301 Rev.P.04.

Main Issues

7. The main issues are:

- The effect of the proposed development on the living conditions of the occupants of neighbouring residential properties with regard to outlook, daylight and sunlight;
- Whether the proposed development would provide adequate living conditions for future occupants with regard to shared communal facilities; and
- Whether the proposed development would provide adequate cycle storage for future occupants, and whether it would provide adequate refuse storage for the future occupants and the public house.

Reasons

Outlook, daylight and sunlight

8. The daylight and sunlight effects on neighbouring properties have been assessed by the Daylight and Sunlight Study (Neighbouring Properties) (2020) (DSS). In relation to this main issue, the critical assessment is the impact of the additional storey on the living conditions of the adjoining occupants.
9. At No.43-45 Cranbrook Road (No.43-45) both parties agree that the proposal fails the 25-degree rule from the third and fourth floor windows facing the appeal site. Further assessment has therefore been undertaken in the DSS. Of the 4 windows identified by the Council which it considers to be subject to significant daylight and sunlight losses, the DSS has concluded that 3 of these windows fall short of the Vertical Sky Component (VSC) numerical recommendations. However, these serve bedrooms, and the study notes that despite being habitable rooms these have a lower requirement for daylight under the BRE Guidance¹. The fourth window serves a living room which has 2 additional windows which would be unaffected by the development. Furthermore, the DSS notes that all these windows fully comply with the alternative VSC targets undertaken in accordance with the BRE guidance.
10. In relation to No.1 York Road and No.1 York Place, several windows have been identified by the Council as being subject to significant daylight and sunlight losses. However, in the absence of further evidence by the Council and without

¹ Site Layout Planning for Daylight and Sunlight – a guide to good practice, Building Research Establishment

floorplans showing the uses of the rooms identified, I must rely on the overall findings of the DSS. This study notes that in granting permission for the approved scheme, the Council accepted the shortfalls against the BRE Guidance. Considering the further assessment undertaken, the study found that the appeal scheme would perform similarly to the extant approval against the BRE numerical recommendations, there would be little additional impact on the light received by neighbouring properties, and the daylight and sunlight effects would be acceptable given the urban context of the site. I have no reason to conclude differently.

11. Beyond the reason for refusal, the Council does not offer any specific evidence as to how the appeal proposal would cause a loss of outlook and increased sense of enclosure to the occupants of adjoining properties. In this regard, the appeal scheme would be of consistent scale, height, and character to other neighbouring buildings. Furthermore, I consider that the proposal would have little additional impact beyond that which would be experienced under the approved scheme and there would be no greater feeling of overbearing or enclosure.
12. The proposed development would therefore provide acceptable living conditions for the occupants of neighbouring residential properties with regard to outlook, daylight and sunlight. It would therefore comply with Policy LP26 of the Redbridge Local Plan 2018 (LP) and the Council's Housing Design Supplementary Planning Document 2019 (HDSPD) which require that development does not result in an adverse impact on the amenity of neighbouring occupiers. It would also comply with Paragraph 130 and 134 of the National Planning Policy Framework (2021) (the Framework) which seek a high standard of amenity for existing and future occupants.

Shared communal facilities

13. The Council's HDSPD requires large HMOs to provide a high-quality form of accommodation, in terms of size, quality and arrangement of internal space. The proposal would meet all floorspace and floor to ceiling height standards, and each unit would provide a bathroom and kitchen facilities. The HDSPD states that communal facilities will be required to include at least a living room, kitchen and utility room appropriate in size to the number of residents. However, this document is guidance, and each development must be considered on its merits on the basis that each property is different.
14. The previous permission for 9 HMO units for up to 11 people did not provide shared communal facilities and had a similar layout to the appeal proposal with bathroom and kitchen facilities within each unit. This was considered acceptable to the Council at the time and there is insufficient evidence before me to explain why a different approach should be adopted with this appeal proposal. In addition, whilst the appeal proposal would increase the number of units to 13, it would only accommodate up to 2 more people compared to the approved scheme. It would not, therefore, result in a significantly more cramped HMO.
15. I therefore conclude that the proposed development would provide adequate living conditions for future occupants with regard to shared communal facilities. It would therefore accord with LP Policy LP26, the HDSPD, and the amenity protection aims of the Framework.

Storage of refuse and cycles

16. The appeal scheme would provide storage for 2 cycles beneath the stairs of the entrance lobby and refuse storage for the HMO within a room just off this lobby. A similar arrangement was made under the approved scheme.
17. The HDSPD criteria for HMOs require secure and accessible cycle parking in accordance with Policy 6.9 of the London Plan (2021). In the absence of a standard for an HMO, the appellant has used the London Plan standards for a Hotel which requires one space per 20 bedrooms for long stay residents and 1 space per 50 bedrooms for short stay residents. However, I consider that most residents within the proposed development would reside at the appeal premises for much longer periods of time than hotel guests and would be more likely to have cycles, and therefore this would not be a suitable comparison. In this regard, although 2 cycle spaces were considered by the Council to be acceptable for the approved scheme, and the storage location would be the same, this provision would be inadequate for the additional occupants at the appeal premises. Given the lack of options to resolve this matter on this tight site it could not be left to be secured by condition.
18. Whilst the site is well located to access public transport, LP Policy LP23 requires new development to provide sufficient cycle and car parking. In this case, no car parking would be provided, and the policy requires cycle parking in accordance with the London Plan which I have found to be inadequate. I note the short-stay cycle provision nearby but whilst this might be adequate for guests visiting the premises, it would not be an acceptable substitute for the inadequate provision within the premises itself.
19. Although a short flight of stairs would need to be navigated to remove the HMO refuse from the storage area for collection on York Place, this refuse arrangement has previously been considered acceptable by the Council and there is no evidence to suggest that the size of the storage area or the means of emptying them would be inadequate.
20. However, there is no mention of refuse provision for the public house in the Design and Access Statement and a separate area for commercial waste is not identified on the plans. Whilst the approved scheme does not show a separate area for commercial refuse storage, a condition was attached to the permission requiring a refuse management plan to be agreed with the Council giving details of how the HMO and commercial waste would be separated and to ensure that containers would not be stored permanently on the highway.
21. The Council suggests that up to 3 bins for commercial waste are situated adjacent to the rear boundary wall on the public highway which is without pavement. It is not clear, however, whether this is long-term storage or their temporary siting during collection. There were no bins in this location on the highway during my visit and I have no details as to where the commercial waste is stored. There is currently an external yard within the appeal site where commercial bins could be sited (in addition to the smoking area) but this would be largely replaced by the appeal proposal stairwell. The appellant indicates that the commercial waste would be reduced to 1 bin, to be collected twice a week, although I have no details as to whether this would be adequate for the long-term operation of the business or where it would be stored.

22. Consultations on the appeal proposal from the Council's Highways and Cleansing Teams reiterate the need to separate the waste and not allow storage on the highway. However, despite the previous planning condition clearly stating this requirement, no details have been provided to identify where the commercial refuse storage would be within the site. This suggests that the ground floor layout of this appeal proposal is now too constrained to accommodate this waste separately, and commercial waste might be mixed with that of the HMO or that there would be a reliance on the public highway for this storage, close to residential properties. In this regard I saw during my visit other commercial bins on York Place, and these created an unattractive and unsatisfactory environment. In my view, addressing the commercial bin storage could no longer be addressed by condition, as changes to the ground floor would need to be made and I am not convinced that there is adequate space.
23. For these reasons, I consider that the proposal would not provide adequate cycle storage for future occupants. It would also not provide adequate refuse storage for the future occupants and the public house. The proposal would therefore conflict with LP Policies LP23 and LP26 and the HDSPD. These policies seek to ensure that development provides sufficient cycle parking and adequate facilities for refuse and recycling. It would also fail to accord with the amenity protection aims of the Framework and its aim to encourage sustainable forms of transport.

Other Matters

24. The appeal site is near to the Epping Forest Special Area of Conservation (SAC) zone. Because I'm dismissing this appeal for other matters, I do not need to proceed in considering this matter any further. However, I note that the appellant has made a payment to the Council with regard to suitable mitigation in conjunction with the approved scheme.

Planning balance

25. The Council cannot demonstrate a five-year supply of housing land and the policies most important for determining the application are out of date. Paragraph 11 of the Framework therefore confirms that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
26. I have found that the proposal would fail to provide suitable living conditions for future occupants on account of the lack of adequate refuse and cycle storage facilities. This level of harm would be significant, and I attach substantial weight to that harm.
27. The proposed development would provide up to 13 residential units within an HMO. However, whilst this proposal would be an important contribution to housing figures, it would only represent an additional 4 units for up to 2 more people over and above that which has already been approved on this site, therefore making only a small contribution to this undersupply. There would also be no real increase in the actual number of planning units. Whilst meaningful, this would only be a modest benefit, commensurate with the scale of the development proposed. I recognise also that the appeal proposal would be in an accessible location within an established residential area and would

help alleviate pressure on the area's conventional housing stock. These would also be modest benefits.

28. The development would cause no harm to the character and appearance of the area, would provide safe and suitable access independent of the public house and the appellant suggests that the accommodation would be of high quality. These factors are neutral which weigh neither in favour of nor against the proposal.
29. Paragraph 60 of the Framework advises that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land come forward where it is needed and the needs of groups with specific housing requirements are addressed. The London Plan reflects this objective and includes specific policies in relation to optimization of sites in accessible locations to make best use of land, to encourage the development of small sites and encourages boroughs to take account of the role of HMOs in meeting local and strategic housing needs. However, paragraphs 126 and 130 of the Framework explain that the creation of high-quality places is fundamental to what the planning process should achieve, and development should provide a high standard of amenity for future users. The development would not provide such a standard of amenity, so would not comply with the Framework in this regard.
30. Consequently, even taking into account the housing land supply position, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits of providing additional HMO units in the manner proposed. Therefore, the proposal would not represent sustainable development.

Conclusion

31. For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised I therefore conclude that the appeal is dismissed.

G Bayliss

INSPECTOR