
Appeal Decision

Site visit made on 22 November 2022

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2022

Appeal Ref: APP/U5930/W/22/3290017

4 Elm Road, Leytonstone, London E11 4DN

- 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 Augustine Adu-Gyamfi against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 21 1227, dated 22 April 2021, was refused by notice dated 3 August 2021.
 - The development proposed is change of use from a family dwelling to a House in Multiple Occupancy (HMO).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The property has been in use as a 5 bedroom HMO since 2016, and was occupied at the time of my visit. The proposal seeks permission to continue with the use of the house as a small HMO (use class C4), and I have assessed the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the loss of a single family dwelling is justified,
 - Whether satisfactory living conditions are provided, with particular regard to internal space standards,
 - Whether there is appropriate provision for cycle and refuse storage, and
 - Whether a legal agreement to prevent occupiers from applying for parking permits is necessary.

Reasons

Loss of a family sized house

4. The appeal property is the last house-but-one in a long terrace of similar properties on Elm Road. The area is predominately residential, although there are other commercial uses nearby, including several local shops and a builders' merchants.

5. Over recent years, the borough of Waltham Forest has seen increasing numbers of existing houses being converted to smaller units and HMOs. This has led to a reduction in the supply of family sized houses, which are still in demand and have become increasingly unaffordable. The Council has identified that there is now a particular need for such larger, family sized dwellings in the borough, to meet the current and future needs of residents. Accordingly, policy DM5 of the Waltham Forest Local Plan – Development Management policies 2013 (DMP), and Policy CS2 of the Core Strategy, both prioritise the provision of larger family homes in new development.
6. Policy DM6 of the DMP is concerned with proposals to convert dwellings, including into HMOs. The policy aims to maintain a mixed housing offer across the borough by protecting the existing stock of family housing. To achieve this, Part A of the policy says that the conversion of a larger home to C4 use will not be permitted where i) the original gross internal floorspace is less than 124m², and ii) it is located within a 'Restricted Dwelling Conversion, HMO and Building in Multiple Residential Occupation Ward'.
7. In the case of the appeal property, the appellant has indicated that the original three bed house had a floor area of around 90m². It therefore does not meet the policy criteria for conversion. In addition, the property is within a restricted conversion ward, which indicates that there are already a significant number of properties in the area which have been converted into flats and HMOs.
8. The appellant has suggested that, although it was originally a family sized dwelling, the property is too small to be considered to be a 'larger' home in terms of DMP policy DM6. However, it is clear from reading policies DM5 and DM6 that, for the purposes of the development plan, a 'larger family sized home' is considered to be one which has three or more bedrooms, as opposed to a smaller home, with one or two bedrooms. I agree that the appeal property is not particularly large, but even if it were considered to be at the smaller end of the definition of a larger family home, policies DM5 and DM6 would nonetheless apply.
9. The proposal has not involved significant internal or external alteration, and the property could be converted back to a dwelling (C3 use) in the future. However, given that the trend in Waltham Forest has been overwhelmingly to convert dwellings into HMOs and not the other way round, it seems unlikely that this would happen in the foreseeable future. I therefore give little weight to the suggestion that the proposal would not 'truly' lead to the loss of a family sized dwelling.
10. The appeal site is very close to a builders' merchants, which has premises on both sides of the road and operates 7 days a week. I saw at the time of my visit that the operation was busy, with large vehicles parking on the street whilst loading and unloading materials. The presence of this business so close to the appeal site might reduce its attractiveness as a single dwelling, particularly to young families. However, households take a wide variety of forms, and many family groups do not involve children. The property is located in a residential area, and no marketing or other evidence has been provided to suggest that there would be a lack of demand for the house, in its original form as a single dwelling.
11. I conclude that the loss of a family sized dwelling has not been justified. The proposed continuation of use of the house as a small HMO is contrary to DMP

policies DM5 and DM6 and Core Strategy policy CS2. Together, these policies prioritise the provision of new family sized dwellings, and protect the existing stock of family homes from loss through conversion.

12. In its decision notice, the Council has also referred to Core Strategy policy CS13. However, this policy, which is concerned with promoting health and well-being, is of limited relevance to this main issue.

Space standards

13. Although DMP policy DM6 was not specifically referred to in the Council's third reason for refusal, it applies specifically to HMOs and is relevant to the proposal. The policy requires that proposals to convert dwellings into HMOs comply with the minimum space standards contained in tables 7.1 and 7.2. This is to ensure a satisfactory standard of living for occupiers, with adequate space for day-to-day living.
14. For HMOs with 5 people sharing, table 7.2 indicates that a combined living room/kitchen/diner should be a minimum of 20.5m². In the appeal property, the submitted plans show that the combined floor area of the kitchen and dining room is 18.06m², so does not meet the standard. I saw when I visited the house that, whilst the dining room is a reasonable size, the kitchen is small, which meant that fridges had to be stored in the dining room. The small size of the kitchen is a particular concern, given that the property serves 5 unrelated individuals who may cook separately.
15. The combined space of the kitchen and dining room might be sufficient if there were also a shared living room, but that is not the case here. I note the appellant's suggestion that some of the larger bedrooms could be altered to provide additional communal space, but I do not have details of such a scheme before me. Any such proposal would need to be the subject of a separate application.
16. Table 7.1 of the DMP indicates that a single room for sleeping should be 11m² where there are separate kitchen facilities. In this case, three of the bedrooms meet this standard, but two are slightly below. I saw on my visit that the two smallest rooms have sufficient space to move around, and for a bed, small desk and wardrobe. Nonetheless, the minimum standard is not achieved.
17. This is of concern because, in HMOs where unrelated people share a house with communal facilities, it is likely that occupiers spend more time in their bedrooms than might be the case in a house which is occupied by a single household. This is particularly the case where there is no communal living room, as in the appeal proposal. For this reason, it is important to provide sufficient space in individual bedrooms to ensure a satisfactory standard of accommodation. The proposal is deficient in this regard.
18. I acknowledge that all the bedrooms meet the minimum bedroom sizes specified in the Nationally Described Space Standards (NDSS), but the NDSS are more applicable to single occupancy houses, and are not specific to HMOs. As explained above, there are differences between HMOs and single occupancy dwellings, which mean that the minimum bedroom standards set out in table 7.1 form a more appropriate measure in this case.
19. Policy DM6 requires that proposals to convert dwellings to HMOs also meet the requirements set out in policy DM7, where applicable. These standards, like

the NDSS, apply to general housing rather than HMOs specifically, and the Council has not explained its specific concerns in relation to this policy. However, the overall minimum standards for dwellings contained in Table 8.1 of policy DM7, and the similar figures contained in the NDSS, both indicate that in its original format, the three bedroomed property would meet the minimum standard for 4 people, but not for 5. This reinforces the view that the size of the house is small for the number of occupiers, resulting in a cramped form of accommodation.

20. The appeal property has a rear garden which provides a good amount of outdoor amenity space for occupiers, and there is no suggestion that the proposal does not meet the requirements for outdoor amenity space contained in DMP policy DM7. Despite that, the failure to meet the minimum space standards for the communal facilities, and the small size of two of the bedrooms, means that the development fails to comply with policy DM6. This leads me to conclude that the property fails to provide satisfactory living standards for occupiers.
21. The Council has also referred to Core Strategy policy CS2 and DMP Policy DM32, but they are not directly relevant to this main issue, and the Council has not explained its particular concern in relation to the specific guidance contained in the Supplementary Planning Document – Urban Design (2010).

Cycle and refuse storage

22. The submitted plans do not include details of cycle storage, but I saw when visiting the site that there is sufficient space in the rear garden to store 2 bicycles, whilst leaving plenty of outdoor amenity space for other uses. If the scheme was otherwise acceptable, the provision of an appropriate covered, lockable cycle storage facility in the rear garden could be secured by condition.
23. Details of refuse storage and capacity has not been provided either, but when visiting the area, I saw that most residents along the terrace, including the occupiers of the appeal property, were using the front garden areas to store their refuse containers. The front garden area of the appeal property is large enough to accommodate a number of refuse containers, in a tidy manner, without infringing on the pavement or the neighbouring property. As is the case for other houses in this street, the front boundary wall provides screening for the bin storage. An appropriate solution for bin storage is therefore available, and I saw no evidence of harm to the living conditions of neighbouring occupiers arising from the arrangements for storage of refuse.
24. I conclude that, subject to appropriate conditions, adequate provision for cycle and refuse storage could be provided, which would meet the detailed requirements set out in DMP Policies DM16 and DM32. In this respect, the proposal is also consistent with Core Strategy policy CS7, which promotes sustainable transport.
25. In relation to this main issue, I have identified no conflict with DMP policy DM29 and Core Strategy policies CS13 and CS15, which are concerned with ensuring high standards of urban design, and promoting health and well-being.

Legal agreement

26. Core Strategy policy CS7 promotes sustainable travel by, among other things, managing parking requirements effectively across the borough. The policy

aims to minimise the negative impacts of traffic and reduce reliance on cars by promoting car-free developments. Car free development is also encouraged by DMP policy DM16.

27. The appeal site is within a controlled parking zone, with a residents parking permit scheme in place. No car parking is proposed as part of the scheme, which is supported by the Council. However, to ensure that the development is car free and does not add to parking stress in the area, the Council seeks a legal agreement to prevent future occupiers from applying for a parking permit.
28. The appellant has not disputed the need to implement car free development in this way, and has indicated that they would be happy to enter into a legal agreement. However, such an agreement would need to be provided prior to any approval being granted. The appellant has suggested that an agreement could be secured through a condition, but as the property is already in use as a HMO, it would be difficult to impose a condition that was enforceable.
29. That said, the appeal site was previously in residential use. As a single occupancy property, occupiers would have been able to apply for a parking permit to allow on street parking. The proposed change to an HMO which houses 5 unrelated individuals could result in some additional demand for on-street parking, compared with a single occupancy dwelling. However, HMOs are a low cost form of accommodation, and it is unlikely that all tenants will own cars. The proposed change is therefore unlikely to significantly increase parking pressure in the area. Furthermore, the property has already been in use as an HMO for some 6 years, during which time, occupiers would presumably have been eligible to apply for parking permits. I have no evidence to suggest that the operation of the HMO to date has caused any particular problems in relation to parking stress.
30. Having regard to the above considerations, I conclude that a legal agreement to restrict occupiers' eligibility for parking permits is not necessary to make the proposal acceptable in planning terms. Core Strategy CS7 and DMP Policy DM16 encourage car free housing, but there is no explicit requirement in either policy for the proposed development to be car free. Therefore, despite the lack of a legal agreement, the proposal does not conflict with these policies in respect of car free housing.
31. Core Strategy Policy CS15 is concerned with well designed buildings, places and spaces, but does not specifically require car free housing.

Other Matters

32. The appellant has indicated that some of the tenants have been living in the property on a long term lease for at least 5 years. Whilst I have been provided with no evidence to back up the appellant's claim about the longevity of the tenants, there were clearly people living in the house at the time I visited.
33. That the property is already occupied is a material consideration in this appeal, and I am conscious that dismissing the appeal will lead to uncertainty for the existing tenants. However, the development has resulted in the loss of a family sized home, and is contrary to the clear policy objective of protecting this type of accommodation in the borough. Furthermore, the failure of the development to meet the space standards is indicative of accommodation which is cramped for 5 people sharing, and this further counts against the

scheme. These matters weigh strongly against the proposal, which I find to be unacceptable.

34. I have found that arrangements for refuse storage are adequate, and appropriate provision could be made for secure cycle storage. A legal agreement to restrict access to parking permits is not necessary. However, these matters, which amount to a lack of harm, are not sufficient to outweigh the objections to the principle of the scheme and the internal space standards.

Conclusion

35. For the reasons given, the proposal conflicts with the development plan. As I have identified no other considerations that outweigh this finding, the appeal must be dismissed.

R Morgan

INSPECTOR