



Appeal Decision

Site visit made on 30 November 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2022

Appeal Ref: APP/Q5300/W/22/3297602

61 Mitchell Road, Southgate N13 6EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Besim Dishnica against the Council of the London Borough of Enfield.
 - The application Ref 21/03253/FUL, is dated 24 August 2021.
 - The development proposed is the conversion of one dwelling to provide five x double HMO rooms, communal bathrooms, communal kitchen/dining room, one parking space, new landscaping to front and to patio, garage for 1 car, 7 cycle storage spaces and 2 euro bin.
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Decision

1. The appeal is dismissed and planning permission is refused for the conversion of one dwelling to provide five x double HMO rooms, communal bathrooms, communal kitchen/dining room, one parking space, new landscaping to front and to patio, garage for 1 car, 7 cycle storage spaces and 2 euro bin.

Preliminary Matters and Main Issues

2. As part of their application submission, the appellant put forward an alternative scheme that would reduce the number of occupants from 10 to 9. However, this was not considered by the Council, who have assessed the proposal as being for 10 occupants. I am mindful that it is not the purpose of the appeal process to evolve a scheme and it is therefore important that what is considered by the Inspector is essentially what was considered by the Council.
3. Also, there is no evidence that the amended scheme has been subject to any form of public consultation. In accordance with the 'Wheatcroft Principles'¹, it would not be appropriate to consider these amended plans within my decision as the acceptance of such would deprive those who should have been consulted on the changed development the opportunity of such consultation.
4. Although the Council expressed concerns that the property is already in use as a House in Multiple Occupation (HMO), it noted that there is no planning permission for a change to this use. Consequently, the application was considered as per the original description of development. As the lawful use appears to be within Class C3, I have similarly considered the existing property to be a dwellinghouse and have therefore proceeded to determine the appeal on the basis of the plans and description of development as originally submitted.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

5. The Council failed to determine the application within the prescribed period. It has provided an appeal statement indicating that had it determined the application, the proposal would have been refused. Whilst the Council's putative reasons for refusal did not include a specific reason relating to local housing need, its concerns about this are clear from the statement and the appellant has provided comments in respect of this matter.
6. Therefore, the main issues are a) local housing need; b) the effect of the proposed development on the living conditions of future occupants; and c) the effect of the proposed development on the living conditions of neighbouring occupants.

Reasons

Local Housing Need

7. Policy CP5 of the Enfield Core Strategy 2010 (CS) requires new development to offer a range of housing sizes to meet housing needs. The aim of the policy appears to be to try to provide a mix of housing but with a greater proportion of three+ bedroom houses. However, there is no suggestion that it would prohibit the conversion of a family dwelling into a House in Multiple Occupancy (HMO).
8. The Council also refer to the Enfield Strategic Housing Market Assessment, 2015 (SHMA). However, the SHMA itself does not form part of the adopted development plan for the area. Similarly, the SHMA which provides evidence to support Policy CS5, does not preclude the conversion of family dwelling houses into HMOs.
9. Furthermore, at a more micro level, criterion (b) of Policy DMD5 of the Enfield Development Management Document (DMD) states that proposed developments must not harm the residential character of the area or result in an excessive number or clustering of conversions, setting out specific thresholds. The Council has confirmed that the proposal would not exceed these levels and thus there is not an oversupply of non-family housing in the vicinity of the appeal site.
10. In the absence of sufficient substantive evidence to the contrary, for the reasons set out above, I do not consider that the proposal would have an adverse effect on local housing need. As such, the proposal would not conflict with Policy CP5 of the CS or criteria (b) of Policy DMD 5 of the DMD in this respect.

Living Conditions – Future Occupants

11. The development comprises a change of use from a single-family dwelling to an HMO comprising 5 bedrooms, with a proposed occupancy of 10 persons. Policy DMD5 of the DMD is explicit that "development involving the conversion of existing units into self-contained flats and houses of multiple occupation (HMO) will only be permitted if the following criteria are met: All development must: (a) provide a high quality form of accommodation which meets internal floor space standards in the London Plan [...]".
12. Policy D6 of the London Plan prescribes minimum internal space standards for new dwellings (which are equivalent to those set out in the Nationally Described Space Standard (NDSS)). Whilst I acknowledge the development is

an HMO and not a new dwelling, given the explicit wording of Policy DMD5, it follows that the space standard which corresponds most closely with the development should be adhered to.

13. This would be the space standard for a 2-storey 5-bedroom 8-person dwelling, which prescribes a minimum floor space of 128sqm. The floorspace of the development is approximately 124sqm, so falls short of this particular requirement. Not being able to meet the minimum space standard for 8 people, let alone provide sufficient space for 10 people, weighs heavily against the proposal. That two of the five bedrooms would be below the stated minimum size for double bedrooms exemplifies the difficulties which arise from seeking this level of occupancy within this size of property. To my mind, this would be sufficient reason to reject the scheme.
14. On the ground floor a communal kitchen/dining area would be provided. This area would not provide any 'living' space. Whilst I accept that not all occupants would necessarily want to socialise or eat together, the layout of the space would be constrained once it was equipped with appliances and furniture. There would be a need to maintain access through the kitchen and out to the garage/refuse/bike storage building. Together with the limited worksurfaces, the kitchen could only be used by a limited number of people at any one time. In addition, it seems likely only the smallest table and limited number of chairs could be accommodated within the dining space. This further exemplifies the property's constraints in seeking to accommodate this number of occupants.
15. There are no specific size requirements for HMO garden areas although Policy DMD9, which is not specifically referenced in the suggested reason for refusal, is said to indicate that developments should provide good quality private amenity space and a functional area. Much of the rear area is taken up with the existing garage building. However, the remaining area would allow sufficient space for occupants to hang out washing or to socialise in the rear garden.
16. The appellant has referred to the Council's HMO Standards. This is a document used for licencing purposes and so is guidance rather than development plan policy. Furthermore, licencing decisions are based on other legislation and criteria. I am required to consider the appeal against the development plan and any other material planning considerations.
17. Additionally, an assessment for planning purposes cannot always, in my opinion, be based solely on the minimum size of the accommodation that can be provided. In order to meet the development plan expectations and ensure a high standard of living environment, qualitative factors such as the shape of the communal space, its usability and how it would be likely to function may need to be taken into account. In this instance, based on such an assessment, as outlined above, I have found the communal space does not meet the development plan expectations for ten occupants.
18. Within that planning context, I do not find that the existence of the HMO Standards or an HMO licence for the property to weigh significantly against the considerable harm I have identified. Furthermore, I note that the other bedrooms would exceed the minimum space standard for double bedrooms. However, neither this nor the size and usability of the rear garden area would be sufficient to mitigate my overall findings that the accommodation would be substandard and so would cause substantial harm to the living conditions of future occupiers.

19. As such, the proposal would be contrary to Policy D6 of the London Plan, Policy CP4 of the CS and Policies DMD5 and DMD8 of the DMD which, amongst other things, require accommodation to be of a high quality, with rooms that are adequately sized, are comfortable and have functional layouts so that the accommodation is fit for purpose and accords with the NDSS.
20. The proposal would also be contrary to Paragraph 130 of the National Planning Policy Framework (the Framework), which amongst other things, seeks to ensure developments create a high standard of amenity for future users.

Living Conditions - Neighbours

21. The appeal property was originally a 3-bedroom terraced house. It has been extended to the rear at ground floor level and a fourth bedroom has been added in the roof space. The house could therefore accommodate a large family, a number of whom could be adults.
22. The HMO would be likely to be occupied by 10 adults, who are more likely to have individual daily schedules, separate deliveries and visitors and thus are less likely to undertake activities together when compared to a family. Accordingly, there could be more comings and goings with the proposal.
23. Furthermore, the limited communal space is likely to result in occupants spending more time in their own rooms which are likely to be used for recreational activities such as watching the television, listening to music or receiving visitors. Given the number of individuals in the property, this is likely to generate significant disturbance through the shared walls.
24. Having regard to the proposed layout, the ground and first floor bedrooms would all share a party wall with No.59 Mitchell Road. Thus, this neighbour in particular is likely to experience a significant uplift in noise and activity, which is likely to be harmful to their living conditions.
25. Given the relatively compact residential nature of the houses, I consider that the effects of 10 unrelated individuals residing at the proposed HMO would not be similar to a large family occupying the same property. It seems to me that the use of the property as a 10 person HMO could generate significantly more noise and disturbance than a family. That the property would be double glazed and insulated does not alter my findings in this regard.
26. In conclusion on this issue, I find that the proposal would have an unacceptably harmful impact on the living conditions of the occupiers of neighbouring properties. As such, it conflicts with Policies D6 and D14 of the London Plan, Policies CP4, CP30 and CP32 of the Core Strategy and Policies DMD5, DMD8 and DMD37 of the DMD which, amongst other things, seek to ensure development is designed appropriate to its context and that adjoining neighbours are protected from adverse effects such as noise and disturbance.
27. Similarly, the development would conflict with the overarching objectives of the Framework, which again seek to ensure development achieves quality living conditions for all occupiers.

Other Matters

28. Both the main parties provided appeal decisions supporting their different opinions. Given the variety of decisions, it is clear that the individual

circumstance of each property will be a major determining factor. I have therefore reached a decision based on my findings of the evidence before me and the appeal examples provided do not alter my views.

29. The main parties disagree about the provision and siting of refuse storage. However, even if this matter were to be resolved it would not have a bearing on the overall harm I have identified and so would not change the outcome of this appeal.
30. The appellant points to a number of factors in support of the scheme, including the absence of neighbour objections; the proximity to services and public transport; the provision of bathrooms on each floor, the landscaping scheme; the proposed widening of the garage doors and provision of cycle parking. However, these factors in themselves do not mean that the current scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issues of the case.

Conclusion

31. The proposal would harm the living conditions of future occupants and existing neighbours. These harms would be considerable and long lasting and so worthy of significant weight. Whilst I have found that the proposal would not adversely affect local housing needs, this represents compliance with the development plan and so signifies a lack of harm in this respect. This is something that any development would be expected to achieve and so does not weigh positively in favour of the scheme
32. Therefore, I conclude that the proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan.
33. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR