



Appeal Decision

Site visit made on 10 January 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 JANUARY 2023

Appeal Ref: APP/B5480/W/22/3297559

6 Roneo Corner, Hornchurch RM12 4TN

- 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 W Weaver against the decision of the Council of the London Borough of Havering.
 - The application Ref P2215.21, dated 18 November 2021, was refused by notice dated 19 January 2022.
 - The development proposed is change of use of first floor 1-bed flat from C3 to C4 to create a 4- bed HMO involving loft conversion and addition of rear dormer and change of use of ground floor from Class E to mixed use Classes E retail and C3 residential to create a 1-bed flat to the rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the appellant's name, the description of the development and the site address from the planning appeal form as these accurately reflect the circumstances of the proposal. However, I have removed reference to 'flat' in the appeal site address as the proposal includes other elements of the property.

Main Issues

3. The main issues are the effect of the proposal on the:
 - Supply of family housing;
 - Living conditions of future residents of the House in Multiple Occupation (HMO) in respect of communal living space and sanitation;
 - Character and appearance of the area;
 - Living conditions of future residents of the ground floor flat with regards to outlook, light and amenity space;
 - Vitality and viability of this Local Centre; and
 - Parking provision in the area.

Reasons

Family Housing

4. Policy 8(i) of the Havering Local Plan 2021 (the Local Plan) states that the Council will support applications for HMOs where it can be demonstrated that the overall size of the original property to be converted is not less than 120sqm, amongst other things. The Council sets out that the aim of this policy is to protect family housing.
5. The appeal site includes a flat which is below the threshold specified in Policy 8(i). However, the flat is a 1-bedroom dwelling of a limited size, and based on what I have seen and read it is not suitable accommodation for a family. Therefore, despite falling below the area threshold of the policy, the proposal would not result in the loss of family housing.
6. I therefore conclude that the proposal would conflict with Policy 8(i) insofar as it would result in the conversion of a property of less than 120sqm. However, the proposal would not result in the loss of a family dwelling contrary to the aims of Policy 8(i), and this matter does not therefore weigh against the proposal.

Living Space - HMO

7. Policy 8(vi) of the Local Plan sets out that proposals for HMOs should contain communal space, including either a dining or living area, large enough for all the dwelling's occupants to use simultaneously.
8. The submitted plans indicate a kitchen in the loft serving the. This would be of a constrained layout accessed off a communal landing, and would only be 8.5sqm in area. The roof slope may also affect the head height of the kitchen, limiting the amount of usable space even allowing for the arrangement of worksurfaces and storage.
9. Due to its size and arrangement, I do not consider that the proposed kitchen would represent a communal space large enough for all the dwelling's occupants to use simultaneously, and the proposal would therefore conflict with the requirement of Policy 8(vi) of the Local Plan.
10. Reference has also been made to the provision of hand basins in each bedroom. However, the bedrooms are of a suitable size and it would be possible to ensure the provision of hand basins by condition. This matter does not therefore weigh against the proposal in respect of sanitation.
11. Notwithstanding my conclusion in respect of hand basins and sanitation, the proposal would not provide suitable communal living space for residents of the HMO. The proposal would therefore be contrary to Policy 8(vi) of the Local Plan.

Character and Appearance

12. The appeal site is part of a small terrace of properties. The rear roof slope of the terrace is relatively unaltered giving the roofscape an uncluttered appearance even allowing for ventilation ducts and a window projecting above the eaves line. Due to the layout of the area the rear roofslope is readily visible, including from the public realm of Grenfell Avenue.

13. The proposal would include a dormer window projecting across the full width of the rear roofslope of the appeal site. This would appear as an overdominant addition to the host property, and would be a particularly jarring element within the context of the existing roofscape.
14. The appellant contends that the area to the rear of the site consists of storage and garages serving the ground floor shops, and that the outlook is not onto residential gardens. However, that does not lead me to a different conclusion in respect of the unacceptable design of the proposal and its relative prominence.
15. I conclude that, due to its scale, design and location, the proposed rear dormer would lead to significant harm to the character and appearance of the host building and the area. The proposal would therefore be contrary to the urban design considerations of Policy 26 of the Local Plan.

Living conditions - ground floor flat

16. The proposed ground floor flat to the rear would have a single aspect with windows looking onto a small amenity and refuse storage area. The amenity area would be bounded to the rear by a 1.8m high fence with vehicle parking beyond. Due to the proximity of the boundary fence to the windows, the outlook for the flat would be unduly constrained and would lead to an oppressive environment for residents.
17. The single aspect and the location of windows on the rear elevation would also limit the amount of light entering the flat, although skylights are proposed which would increase light levels inside the building. However, I am mindful that these may lead to intrusive views into the flat from rooms within the HMO, and measures to address this such as obscured glazing may limit the amount of light passing through them.
18. The appellant has submitted an Internal Daylight Assessment (IDA) which concludes that the flat would receive a good amount of natural daylight. However, the layout of the flat considered by the IDA does not reflect that of the appeal proposal, and this therefore does not represent robust evidence in respect of the appeal before me.
19. The IDA also uses the methodology of the Building Research Establishment publication 'Site Layout and Planning for Daylight and Sunlight - A Guide to Good Practice' second edition published in 2011 (the BRE Guide). However, the BRE Guide 2011 has been superseded by a 2022 edition which has significantly altered the assessment of daylight and sunlight within new developments. This further undermines the robustness of the IDA, and had I been minded to allow this appeal I would have given the main parties the opportunity to respond on this matter.
20. The Council also refers to the amenity space to the rear. However, the space would appear to meet the standards as set out in Policy D6 of the London Plan, and on that basis this does not weigh against the proposal.
21. Notwithstanding my conclusion on amenity space, I conclude that the proposal would lead to significant harm to the living conditions of future residents of the ground floor flat in respect of outlook, and that it has not been demonstrated that the proposal would provide suitable levels of natural light for residents of the flat. The proposal would therefore be contrary to the housing quality and

amenity considerations of Policy 7 of the Local Plan and Policy D6 of the London Plan 2021, particularly in respect of daylight, sunlight and outlook.

22. The Council's reason for refusal on this issue refers to the London Housing Design Guide SPG. However, I have not been provided with a copy of this document and have therefore not had regard to it.

Vitality and Viability

23. The appeal site is part of a group of buildings with a frontage containing retail and commercial uses on the ground floor. This is a Local Centre within the Town Centre Hierarchy of the Local Plan. Policy 13(ii) of the Local Plan states that the Council will support proposals which do not harm these town centres' vitality and viability.
24. The proposal would result in a significant reduction in the size of the retail unit on the ground floor, resulting in a shop trading area of approximately 25sqm. Given the limitations of the size of the resulting unit and the comparative size of nearby commercial properties, I consider the Council's concerns about the unit being potentially unlettable are reasonable. The resultant potential increase in the vacancy rate and loss of active frontage would be detrimental to the vitality and viability of this Local Centre.
25. The appellant contends that the size of the existing unit is a contributory factor to making the unit unlettable, as well as limited footfall and accessibility. However, the appellant's reference to feedback from letting agencies is of an anecdotal nature and unsupported by substantive evidence. Furthermore, at the time of my visit, the whole ground floor unit was occupied by an active commercial use.
26. Based on the evidence before me and my own observations, I conclude that the proposal would result in the creation of an unlettable retail unit, with resultant harm to the vitality and viability of this Local Centre. The proposal would therefore be contrary to Policy 13 of the Local Plan which seeks to ensure that development does not harm the vitality and viability of town centres.

Parking Provision

27. The Council refers to existing parking stress in the area. This reflects my own observations where I saw that there were few, if any, parking spaces available on the nearby street of Grenfell Road. There is limited public parking available to the front of this commercial parade, but this is subject to parking restrictions.
28. The appeal site includes 2 off-street spaces to the rear. However, this would provide for the proposed flat and the retail unit. The appellant refers to the potential to increase this to 4 spaces, but it has not been demonstrated how this would be practicable. Although there may be no parking requirement for HMOs as a matter of planning policy, there is no certainty that residents of the HMO would not own a vehicle, thereby increasing parking stress on nearby streets.
29. That said, the Council states that the proposal would not conflict with planning policy on this issue regarding HMOs if a legal agreement was in place to restrict eligibility for on-street residential parking permits for future occupiers of the

proposal. However, there is no such legal undertaking or agreement before me to ensure that that would be the case.

30. The appellant refers to the potential to the use of a condition in respect of entering in to such an agreement. However, the Planning Practice Guidance states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. The appellant has not set out any exceptional circumstances to justify departing from this guidance.
31. In the absence of a legal agreement restricting the ability of future residents to apply for on-street parking permits, I conclude that the proposal would not make suitable provision for the parking of vehicles and would have an unacceptable impact on parking conditions in the area. The proposal would therefore be contrary to Policy 24 of the Local Plan with regards to parking provision and the restriction of eligibility for on-street parking permits.

Other Matters

32. I note the frustrations expressed by the appellant in relation to the level of communication from the Council leading up to this appeal, and that Council officers did not visit the site. However, these are not matters for this appeal which I have determined on its planning merits.
33. Reference has been made to potential liability regarding the Community Infrastructure Levy if planning permission is granted on appeal. However, as I have dismissed the appeal this is not a matter that I need to consider further.

Conclusion

34. Notwithstanding my conclusion in respect of family housing, I conclude that the proposal would lead to significant harm in respect of the other main issues. The proposal would therefore be contrary to the development plan when read as a whole with regards to living conditions, design, town centre development and parking provision.
35. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR