



Appeal Decision

Site visit made on 25 January 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/G5750/W/22/3297588

5 Frobisher Yard, London E16 2GY

- 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 Grace Sun of Thecityrooms.com Ltd against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/03126/COU, dated 16 December 2021, was refused by notice dated 14 March 2022.
 - The development proposed is change of use from existing C3 Dwelling house to C4 Small House in Multiple Occupation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that development had already taken place. However, I saw on my visit that the internal arrangement of rooms is different from that shown on the existing and proposed plans. For the avoidance of doubt, I have dealt with the development as a proposal, on the basis of the submitted plans.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character of the area, in particular the mix, balance and cohesion of the community,
 - whether adequate living conditions for occupiers of the proposal would be provided, in respect of outdoor space and escape in the event of a fire, and
 - the effect of the proposal on the living conditions of the occupiers of nearby properties.

Reasons

Community mix, balance and cohesion

4. The appeal property has previously been in use as a purpose-built three-bedroom family maisonette over three floors, within a multi-storey residential building. Its surroundings are predominantly high-density blocks of residential units. The appeal application seeks permission for use of the property as a four-bedroom House in Multiple Occupation (HMO).

5. To stabilise population churn, Policy H4 of the London Borough of Newham Local Plan (NLP), adopted December 2018, seeks to protect three-bed family housing from conversion to other uses. Although the conversion of such housing to other uses may be appropriate where certain criteria are met, for example where it is above an existing commercial unit, the site and the proposal would not comply with these criteria.
6. NLP Policy H3 similarly requires, amongst other things, that HMOs should be purpose-built or converted from premises other than family-sized dwellings. NLP Policies H1, S1 and S6 also seek to protect and significantly increase family housing and to restrict new HMO uses. The proposal would result in the loss of the family accommodation provided by the appeal site through the creation of an HMO. It would therefore conflict with these policies.
7. The appellant's examination of the Planning Register has found that within a two-mile radius of the property, there have been no planning applications for conversion of properties to HMOs. Furthermore, no permissions for HMO uses or other non-family residential uses have been revealed. On this basis, it is put to me that the locality is not subject to pressure for such uses, or stress from them, and that family housing is in abundance.
8. However, the absence of applications and permissions may simply mean that the Council's policies to generally resist the loss of family housing, and its implementation of an Article 4 Direction, has discouraged such proposals. Furthermore, the Planning Register would not necessarily include conversions that have taken place without planning permission. The appellant's research does not therefore demonstrate conclusively that there is little or no pressure for conversions to HMO use in the area.
9. HMOs can contribute to a mix of residential uses and meet housing needs. However, the Council's Strategic Housing Market Assessment found a decline in the number of family homes in the Borough, resulting in a need to protect and increase their supply. As such, allowing the proposal would harmfully conflict with the Council's spatial strategy. It would also make it difficult for the Council to resist subsequent applications for the loss of family accommodation elsewhere, further undermining its strategy. As a result, the proposal would risk causing destabilisation of the population, which would harm community cohesion.
10. For the reasons given above, the proposal would have a harmful effect on the character of the area, in particular the mix, balance, and cohesion of the community. As such, it would be contrary to NLP policies H3, H4, S1 and S6. It would also conflict with NLP policies SP1, SP2, SP3 and H1 of the NLP. These policies seek to deliver successful, balanced communities with a mix of housing types. However, I find no conflict with the strategy for the Royal Docks set out in NLP policy S3, which does not relate directly to these issues.
11. For the same reasons, I find that the proposal would not comply with policies GG4 and H10 of the London Plan, adopted March 2021 (LP). These identify the need for family housing and require mixed and inclusive communities. The proposal would also conflict with the similar aims of the National Planning Policy Framework (the Framework). However, as the proposal would have an equivalent of overall floorspace as existing, I find no conflict with LP policy H8.

Living conditions of occupiers of the proposal

12. As a C3 dwelling, all occupiers of the appeal property would have access to the external patio area to the rear of the property, through the first-floor lounge. The proposal is for the lounge to become Bedroom 4. As an HMO, occupiers of the property are likely to have a greater degree of independence from each other, compared to those within a family home. As such, each occupier is likely to lock the internal door to their bedroom, to provide individual privacy and security. As a result, only the occupiers of Bedroom 4 would have unrestricted direct access to the rear amenity space, and the occupiers of Bedrooms 1 to 3 would have no guarantee of this.
13. I saw examples of communal external open space close by, which would provide some opportunity for outdoor recreation for occupiers. The proposal would also be for non-family accommodation and so would have less necessity for such space. Nevertheless, NLP policies SP2 and H1 require good amenity and external private space, whilst NLP Policies S1, SP1 and SP3 seek high quality development that achieves healthy communities. LP Policies D4 and D6 emphasise good design, and housing layouts that are functional and fit for purpose. The absence of easily accessible private space for occupiers of most of the bedrooms, as proposed, would conflict with these aims.
14. If the door to proposed Bedroom 4 is locked, which I have found is more likely were the proposal to take place, the route to the patio via this room would not provide a means of escape in the event of a fire. Instead, occupiers of the second floor of the accommodation would have to escape via flights of stairs. This would be more convoluted, would be less physically suitable for some occupiers and could itself be blocked. As such, by providing a less accessible means of escape, the proposal would risk the safety of the occupiers of the property.
15. The Building Regulations seek to ensure fire safety, but LP Policy D12 makes clear that suitable means of fire escape should be considered at the outset, before Building Control stage. It is therefore relevant to planning. No fire safety measures that could be secured by planning condition have been identified or proposed to overcome this issue.
16. For these reasons, the proposal would not provide adequate living conditions for occupiers of the proposal, in respect of outdoor space or escape in the event of a fire. As such, it would be contrary to NLP Policies S1, SP1, SP2, SP3, and H1. However, I find no conflict with NLP policy H4, which does not refer to the living conditions of occupiers. For the same reasons, the proposal would also be contrary to LP Policies D4, D6 and D12 and to the requirements of the Framework that future users should have a high standard of amenity.

Living conditions of occupiers of nearby properties

17. The appeal property is within a predominantly residential area and the proposal is for a residential use. Therefore, to some extent, the proposal would be consistent with its surroundings. The Council does not allege that it would be a 'bad neighbour' use such as a bar or take-away. Furthermore, used as a three-bedroom family home, the property could be occupied by more people than the proposal.

18. Even so, a family occupying a single dwelling is more likely to carry out day-to-day activities and shared trips together. This contrasts with the proposal, where four individuals would be likely to have their own separate routines, with their associated comings and goings. As a result, the proposal would generate more traffic, people, visitors, deliveries, and movements generally than would reasonably be expected from a single-family home.
19. As such, the proposal would result in a pattern of use with an increased level of general activity, noise, and disturbance, both internally and externally, compared to a C3 use. This increase in noise and disturbance would be detrimental to the health and living conditions of nearby residential occupiers.
20. For these reasons, find that the proposal would have a harmful effect on the living conditions of the occupiers of nearby properties. It would therefore be contrary to NLP Policy SP8, which requires the avoidance of negative impacts for neighbours. It would also conflict with NLP Policies SP1, SP2, SP3, H1 and H3 which require successful, high-quality housing, to ensure neighbourly, healthy, sociable, and inclusive communities.
21. London Plan policies GG1, GG3, GG4, D3 and D14 make similar requirements and so the proposal would conflict with these policies too. However, I find no conflict with NLP Policy H4, which makes no reference to matters directly relevant to the issue of living conditions, or NLP policy S2, which relates to another part of the Borough.

Conclusion

22. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR