



Appeal Decision

Site visit made on 24 January 2023

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/Z5060/W/22/3304751

1 Essex Road, Barking IG11 7QN

- 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 BSV Investments Ltd against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 22/00450/FULL, dated 15 March 2022, was refused by notice dated 8 June 2022.
 - The development proposed is described as retrospective planning for change of residential house (use class C3) into 5 bedroom HMO units (use class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reason for refusal refers to conflict with policies in the London Borough of Barking and Dagenham Draft Local Plan 2037 Second Revised Regulation 19 Consultation Version, December 2021 (Draft Local Plan). However, I have been provided with Version reference Autumn 2021 of the Draft Local Plan within the submitted documents. Notwithstanding this, while the Council has advised that the Draft Local Plan is in its final stages of examination, no details or evidence regarding the direct status of the policies referred to in the reason for refusal has been provided. I cannot be sure that these policies are not subject to further possible amendment. I therefore afford these policies limited weight in this case, focussing on those policies within Barking and Dagenham Core Strategy, adopted July 2010 (CS) and the Barking and Dagenham Borough Wide Development Policies Development Plan Document, adopted March 2011 (DPD).
3. The dwelling has already been converted into a five-bedroom House in Multiple Occupation (HMO). From my site visit, the alterations completed appeared to be in general accordance with the submitted drawings and I have therefore considered this appeal based on these.
4. The Council have advised that the site is in an area which is subject to an Article 4 direction which removes permitted development rights for the change of use from a dwelling house to a HMO. The appellant contends this but has provided no evidence to show it not to be the case. I therefore consider planning permission is required for the change of use and have considered the appeal on this basis.

Main Issues

5. The main issues are the effect of the development on:

- the supply of family housing in the area;
- the living conditions of the occupiers of neighbouring properties with respect of noise and disturbance; and
- the living conditions of the HMO occupiers with respect to internal and external space and built-in storage provision.

Reasons

Supply of family housing

6. The appeal site is a mid-terrace house located within a predominantly residential area which has been reconfigured to create a five-bedroom HMO.
7. Policy BC4 of the DPD seeks to preserve and increase the stock of family housing in the Borough. It states that proposals involving the loss of housing with three bedrooms or more will be resisted. The supporting text for the policy refers to the Barking and Dagenham Housing Strategy 2007 – 2010 which identifies a high demand for large family housing with three bedrooms or more and the lack of provision of this size of house in the Borough. This lack of provision is also highlighted in the supporting text for Policy CC1 of the CS which seeks new development to include large family housing. Although the relevant documents are not provided as part of this appeal, the Council, in its Delegated Report and appeal statement, also refer to both the most recent Strategic Housing Market Assessment (SHMA) 2020 and Annual Monitoring Report which is advised as confirming that there is a high demand for large family houses. The policy permits change of use to HMOs subject to several criteria being satisfied.
8. The appellant advises that the HMO provides affordable accommodation for those on a low income, and this is noted. However, little evidence is provided to counter the Council's identified larger family housing need or that the development meets the HMO criteria set out in Policy BC4 of the DPD. Despite the appellant arguing that the large family house is no longer viable and would be under-utilised, evidence to support this is not provided. Even though the existing house is predominantly retained and could revert back to a large family house, its use as a HMO removes it from the housing stock that could accommodate a family. It therefore results in the loss of family housing.
9. The development contributes to the housing delivery targets that Policies CM1 and CM2 of the CS seek to attain but, does not meet the mix of housing or HMO criteria set out in the Development Plan.
10. Policy H9 of the London Plan 2021 (London Plan) acknowledges the importance of HMOs in providing housing delivery and the development contributes to the ten-year net housing completion target set by Policy H1. However, it conflicts with the London Plan's overarching aim which is to ensure that identified housing needs are met within the Local Development Plan. Similarly, while the development promotes effective use of the land as set out in paragraphs 119 and 120 of the National Planning Policy Framework 2021 (the Framework), it

conflicts with the Framework's aim in chapter 5 of ensuring effective use of land in meeting the need for homes which in this area is for family housing.

11. In conclusion, the development adversely affects the supply of family housing in the area. It is contrary to Policy CC1 of the CS, Policy BC4 of the DPD, Policies GG4, H1 and H9 of the London Plan and chapter 5, Delivering a sufficient supply of homes, of the Framework. It is also contrary to the guidance set out in the Housing Supplementary Planning Guidance 2017. These policies and guidance seek, amongst other matters, to ensure that identified housing needs are met, housing stock is best used, and a suitable choice of homes is provided.
12. The decision notice refers to DPD Policies CM1 and CM2, Policy H2 of the London Plan and London Borough of Barking and Dagenham Housing Delivery Test Action Plan 2020. However, these are not directly relevant as they relate to delivering growth and housing growth management.

Living Conditions of the occupiers of neighbouring properties

13. The development is located in a terraced residential street with small frontages and on-street car parking. Properties are relatively compact giving a dense urban character.
14. In all probability, the HMO is occupied by unrelated adults, whereas if occupied by a family it would likely include people from varying age groups. Unrelated adults are more likely to have individual daily schedules, deliveries and visitors and less likely to undertake activities together compared to a family. This is therefore likely to generate more noise and disturbance due to the number of comings and goings to and from the property. However, when taken in the context of the dense urban character and relatively modest increase in the number of occupants compared to a large family group, there would not be an unacceptable increase in noise and disturbance to other residents. No evidence that the occupants of the HMO are creating unacceptable noise and disturbance to the area has been provided.
15. Accordingly, the development does not harm the living conditions of the occupiers of neighbouring properties with respect of noise and disturbance. The proposal complies with Policy BP8 and BP11 of the DPD which seek, amongst other matters, to protect residential amenity.
16. The development also complies with paragraph 130(f) of the Framework which seeks to ensure developments create places with a high standard of amenity for existing users.

Living conditions of the HMO occupiers

17. Policies BP5 and BP6 of the DPD and Policy D6 of the London Plan set out internal and garden space standards, including built-in storage. Whilst these standards relate to new dwellings, they provide useful guidance on acceptable minimum standards. The Council has assessed the development on the basis that it is a five-bedroom seven person (5b7p) two storey unit. A summary schedule of gross internal floor areas (GIA) for the house and bedrooms in comparison with Policy D6 of the London Plan was provided in the Delegated Report. The appellant does not dispute this schedule.

18. The schedule indicates that, apart from Bedroom 4, all other bedrooms exceed the GIA required by the London Plan. In the case of Bedroom 4 this is shown to be undersized by 0.05 square metres (m²). As this is a minor discrepancy it is not sufficient to represent an unacceptable GIA for single occupation.
19. With respect to built-in storage, the development is identified as not including the required 3.5m² set by Policy D6 of the London Plan. There is likely to be some spare space available within the property as most of the development's bedrooms are larger than the London Plan requirements. However, there is little evidence to demonstrate suitable, sufficient or appropriate built-in storage for the needs of its occupiers. The development is therefore contrary to the London Plan in this regard.
20. Outdoor amenity space to the development is provided by the rear garden which is estimated as being approximately 69m² by the Council. While this is less than the required 75m² stipulated in Policy BP5 of the DPD for a dwelling of four-bedrooms or more, it is still a relatively good-sized recreational and social communal area for exclusive use by the occupants of the HMO. Notwithstanding this, the appellant has also drawn my attention to Greatfields Park. This is an easily accessible large public park which is within an approximate 10-minute walk of the development. It provides supplementary greenspace for the occupants of the HMO to use. On this basis, when taken in combination, the private garden and park offer an acceptable level of outdoor amenity for occupants of the development to enjoy.
21. In conclusion of this matter, although the development provides acceptable living conditions of the HMO occupiers with respect to internal and external space, it does not provide acceptable built-in storage provision. It does not accord and is contrary to Policy CP3 of the CS, Policies BP5, BP6, BP8 and BP11 of the DPD and Policies D4 and D6 of the London Plan which, amongst other matters, seek to maintain residential amenity and secure appropriate standards of accommodation.

Other Matters

22. Even though the development has been issued with a HMO licence, this is related to a different piece of legislation from the planning regulations and does not exempt the development from requiring planning permission for the change of use. While dismissal of the appeal would likely result in the current tenants losing their accommodation, no evidence to show that these tenants could not find similar housing in the area or that they would have to leave the area has been provided.
23. Reference is made to examples of similar HMOs in the area. However, I have only been provided with an outline summary of each example, some decision notices and, in two cases, a number of associated drawings. This information is very limited in detail and planning context and as such I cannot be certain that the circumstances are the same. Consequently, I give little weight to these and in any event, each case should be considered on its individual merits anyway.

Planning Balance

24. The Council has indicated that it cannot demonstrate a five-year supply of deliverable housing sites and has failed its Housing Delivery Test over the latest 3-year period. As such, as set out in paragraph 11 d) of the Framework,

it is for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing a HMO to assist the Council in addressing its under supply and delivery.

25. The site has good access to local services, facilities and shops, and provides affordable accommodation. Also, the proposal would deliver additional housing accommodation that would add to the Borough's housing stock and meet the Government's aims to boost the supply of housing. The proposal would also lead to some social and economic benefits through the activities of the residents of the scheme. However, a five-bedroom HMO would be a small gain which attracts limited weight. When taken together these benefits would attract moderate weight in favour of the proposal.
26. The proposal would cause unacceptable harm through the loss of a family house and not provide satisfactory living conditions for the existing occupiers, to which I give considerable weight.
27. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal and so the presumption in favour of sustainable development does not apply.

Conclusion

28. There are no material considerations that warrant reaching a decision other than in accordance with the development plan. For the reasons given the appeal should be dismissed.

J Symmons

INSPECTOR