



Appeal Decision

Site visit made on 24 October 2022

by J M Tweddle BSc (Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2023

Appeal Ref: APP/W5780/C/20/3260993

Land at 39 Northbrook Road, Ilford IG1 3BP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Vijay Dasari against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The notice, numbered E0194/19, was issued on 1 October 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of property from dwellinghouse (Use class: C3) to a large house of multiple occupation (Use class: Sui Generis).
 - The requirements of the notice are:
 - (i) Cease the use of the dwelling as a large house of multiple occupation; and
 - (ii) Remove all fixtures and fittings that facilitate the use as a large HMO; and
 - (iii) Clear all resultant debris.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990, as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990, as amended (the Act).

Preliminary Matters

2. The London Plan 2021 (the LP) was published by the Mayor of London on 2 March 2021. Accordingly, the parties were invited to comment on the implications of this for the appeal.
3. Policy LP5 of the Redbridge Local Plan 2015-2030 (the RLP) was not cited within the enforcement notice but the Council have identified conflict with this policy in its statement of case. The appellant has provided the text of this policy and a rebuttal to the Council's position. Therefore, no party would be prejudiced by me taking this into account.

The appeal on ground (a)

4. The appeal on ground (a) seeks planning permission for the matters alleged in the notice. Therefore, permission is sought for a large house of multiple occupation, which, in this case, includes nine separate bedrooms over three floors and accommodating up to 12 people.

5. The main issues are:

- Whether the development is suitably located and provides a suitable mix of housing, with particular regard to the provision of family homes;
- Whether the development provides satisfactory living conditions for occupants, with regard to communal space;
- The effect of the development on the character of the area and the living conditions of neighbouring residents, with particular regard to noise and disturbance; and,
- Whether the development provides suitable arrangements for car parking and cycle storage.

Location

6. Policy LP5 of the RLP aims to secure a range of homes that will contribute to the creation of mixed, inclusive and sustainable communities by seeking all housing developments to provide a range of dwelling sizes and tenures particularly focusing on the provision of larger family sized homes with three or more bedrooms. The policy is not restricted to the provision of new build homes.
7. Policy LP6 of the RLP states that the conversion of larger houses to Buildings in Multiple Residential Occupation (i.e. a large House of Multiple Occupation (HMO)) will only be supported where specific criteria are met. Specifically, proposals must exceed a gross floor area of 180 sqm; be located in a Metropolitan, District or Local Centre; should not result in a significant loss of character or amenity through increased traffic, noise and/or general disturbance; should provide appropriate car and cycle parking provision; and, it provides a management plan.
8. The supporting text to Policy LP6 notes that a recent increase in dwelling conversions to small and large HMOs has largely resulted in a loss of family-sized homes, causing the slow erosion of the borough's existing larger housing stock. This poses a serious issue for maintaining a mixed housing offer in many neighbourhoods and ensuring adequate provision of larger family homes.
9. The appeal property is a large mid-terrace house located in a residential area. The internal floor area is approximately 230 sqm and would therefore comfortably exceed the required floor area set by Policy LP6. The site is located in an area with a PTAL rating of 4, indicating good access to public transport, and is within a reasonable distance of services and facilities available in Ilford town centre. I also note the appellant's assertion that there is a demand for HMO accommodation in the area. I also acknowledge that HMOs are an important part of the private rental sector that can provide an affordable form of accommodation for groups who are unable to buy their own home. However, the proposal does not amount to affordable housing as defined by the National Planning Policy Framework.
10. Nevertheless, the proposal would not be located in a designated Metropolitan, District or Local Centre as required by criterion 1(a) of Policy LP6, and would result in the loss of a large family home. The surrounding area has been subject to a significant concentration of conversions to flats or shared accommodation. However, this only serves to demonstrate that a further

conversion, as is proposed, would frustrate the RLP's stated aims of achieving a mixed housing offer, with a focus on the provision of family homes at this location. In addition, the proposal is not supported by a management plan for the property, contrary to criterion 2(c) of Policy LP6.

11. Consequently, for these reasons I find that the location is not suitable for the development, and it does not provide a suitable mix of housing, with particular regard to the provision of family homes. Therefore, the development is contrary to Policies LP5 and LP6 of the RLP, the aims of which are stated above.

Living conditions of occupants

12. The Redbridge Housing Design Supplementary Planning Document 2019 (the SPD) states that all HMOs must provide high standards of accommodation. This includes minimum floorspace standards for communal areas, commensurate with the number of residents, and states that communal facilities will be required to include at least a living room, kitchen and utility room. For HMOs with three or more bedrooms the SPD requires the provision of at least two living spaces.
13. The proposal is for a 9 bedroom HMO to accommodate up to 12 people. In applying the standards set out in the SPD, the Council calculate that at least 43 sqm of communal space should be provided to serve the occupants of the HMO. Given the size of the property and its capacity to accommodate at least 9 separate households, these standards appear to be reasonable in order to provide occupants with adequate living conditions.
14. The development includes a single kitchen with combined dining area. The Council calculate the floor area of this communal area to be 28.4 sqm. This is not disputed by the appellant.
15. This equates to a substantial shortfall when assessed against the required standards, with no provision of a separate living room or utility room. Therefore, the proposal does not provide sufficient communal space and fails to accord with the requirements of the SPD. As a consequence, the development represents a confined and overcrowded form of residential accommodation that is significantly harmful to the living conditions of its occupants.
16. I acknowledge that the property has been issued with a mandatory licence for a HMO to accommodate up to 12 people and its internal layout and room sizes may well meet the standards set out in the Housing Act 2004. However, these matters relate to regulatory regimes that are separate from the planning system and involve different considerations. Therefore, this does not justify from the unsatisfactory standards of accommodation that I have found.
17. The appellant has indicated their willingness to work with the Council to provide additional shared kitchen space and has suggested that a condition could be imposed to limit the number of occupants. However, I have no details of how this could be achieved, and a revised scheme is not before me. Furthermore, I am not convinced that a planning condition restricting the levels of occupancy would overcome my concerns because the number of occupants would need to be severely restricted from what is proposed in order for the development to meet the required standards of communal space. Such a restrictive condition would be unreasonable, as it would, in effect, nullify any grant of planning

permission. In any case, this would not overcome the lack of separate living accommodation required to serve a property of this size. Therefore, I am not satisfied that such a condition would make the development acceptable in planning terms.

18. For these reasons, I conclude that the development fails to provide satisfactory living conditions for occupants, with regard to communal space. Therefore, the development is in conflict with Policy LP26 of the RLP which, among other things, requires high standards of accommodation for housing in terms of size, quality and arrangement of internal space. In doing so, the development does not provide a high standard of accommodation and therefore fails to meet the requirements set out in the SPD.

Character and living conditions of neighbouring residents

19. The appeal property is a large double fronted period mid-terrace property located in a suburban residential neighbourhood. The surrounding area is characterised by similar terrace properties, with generous front and rear gardens, which appear to be in use as family homes or shared accommodation.
20. The Council is concerned that the development will adversely affect the character and quality of the area due to the loss of a family home and a further concentration of shared accommodation. It is also concerned with adverse effects for neighbouring residents in terms of noise and disturbance from increased activity and general comings and goings from the property.
21. The change of use to a large HMO is materially different in nature to that of a single dwellinghouse. The increased occupation of the property by residents living independently of one another will result in a greater amount of refuse being produced when compared with its occupation as a single dwelling. Indeed, during my visit, I observed that the storage of wheeled bins dominated the front of the appeal property, and other neighbouring properties that had been subject to conversion, introducing unsightly clutter into the street scene to the detriment of the character of the surrounding area. Furthermore, the provision of secure cycle storage facilities to the front of the property would also add additional visual clutter that would harm the character and appearance of the area.
22. The occupation of the HMO by up to 9 independent households, and up to 12 persons, is likely to give rise to a greater frequency of comings and goings at different hours of the day and night. Furthermore, it is likely that there could be a greater number of visitors, associated with the unrelated identities of the occupants. Also, as most of the occupants will be adults, there are likely to be significantly more comings and goings than a single family with children, particularly later into the evening. This increased occupation of the property, as a result of the development, and the associated frequency of comings and goings at all hours of the day and night is likely to result in significant noise and disturbance to neighbouring residential occupiers, creating the potential for antisocial behaviour, and thereby diminishing their living conditions.
23. I appreciate that these impacts will largely depend upon the individual lifestyles of occupants and how the property is managed. However, the proposal is not supported by a management plan, and the stipulations set out by the mandatory licence conditions do not amount to a management plan or provide a suitable or robust means of mitigating these adverse effects.

24. Furthermore, these adverse impacts would be amplified by virtue of there already being a high number of converted properties nearby, therefore leading to a harmful over-concentration of shared accommodation in the area.
25. Drawing these points together, I find that the loss of a family home at this location and the introduction of a larger HMO is harmful to the character of the area and the living conditions of neighbouring residents, with particular regard to noise and disturbance. Therefore, the development is contrary to Policies LP6, LP24 and LP26 of the RLP which together requires that there is no significant loss of character or amenity as a result of increased traffic, noise and/or general disturbance, seeks to avoid adverse impacts upon the amenity of neighbouring occupiers, and ensures that the health of residents is not jeopardised through exposure to noise and other sources of pollution.

Cycle and car parking arrangements

26. Despite its original reasons for issuing the enforcement notice, the Council is now content that sufficient car parking would be provided to serve the development and there is no evidence to suggest that the development would cause excessive parking pressure in the locality. I see no reason to deviate from the Council's view on this matter.
27. The Council remains concerned that the development has made no provision for secure, sheltered and accessible cycle storage. However, there is ample space to the front of the property to provide such facilities and I am satisfied that, in the event that the appeal was to be allowed, this could be secured by condition to make the development acceptable in this regard.
28. Accordingly, I find that, subject to the imposition of a condition, the development would provide suitable arrangements for car parking and cycle storage. Therefore, there would be no conflict with Policies LP22 or LP23 of the RLP or Policies T5, T6 and T6.1 of the LP which together promote sustainable modes of transport and require suitable provision for cycle and car parking. Similarly, there would be no conflict with the London Cycling Design Standards (2016).
29. The appellant suggests that the proposal would conform with Policy T7 of the LP. However, as this policy largely relates to sustainable freight movements, it is of little relevance to the appeal.

Other Matters

30. In support of their case, the appellant has drawn my attention to a previous appeal decision¹ relating to the appeal site. However, this relates to a different type of development, and it is not a recent decision. The local policy framework has also changed since this previous decision was made. Therefore, this other decision is of little relevance to the case before me.
31. I acknowledge that the proposal would boost the supply of residential accommodation in the local area and its continued use as a large HMO would bring economic benefits with occupants supporting local services and facilities. I also note that the development would provide a generous rear garden for shared use by occupants and no evidence has been submitted of any

¹ Appeal Ref. APP/W5780/W/17/3171784, dated 5 June 2017

complaints in relation to the existing use of the property. Nevertheless, these matters do not outweigh my findings in relation to the main issues in this case.

32. The appellant argues that the size of the property as a 6 bedroom house is impractical for use as a family home and that the appeal proposal would be supported by other provisions for the development plan as set out by Policies LP2, LP22, LP23 and LP24. However, there is little evidence to support these assertions, and in any case these matters do not lead me away from my overall conclusion.
33. Furthermore, I acknowledge that Policy H9 of the LP promotes the efficient use of existing housing stock, including the protection of HMOs where they are of a reasonable standard. However, the HMO in this case would not offer a reasonable standard of accommodation for residents.

Ground (a) conclusion

34. I have found that the development would provide suitable arrangements for car parking and that cycle storage facilities could be secured by condition. However, this does not overcome my findings in relation to the suitability of the location of the HMO, including the loss of a family home; the unsatisfactory living conditions for occupants of the development; and, the adverse impact on the character of the area and living conditions of neighbouring residents, in terms of noise and disturbance. The other matters and considerations advanced in favour of the scheme are of insufficient weight to justify a decision other than in accordance with the development plan.
35. I recognise that a refusal of planning permission coupled with the requirements of the notice would interfere with the tenants' rights under Article 8 of the Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and correspondence. However, these are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. In this case, I have found the proposed development to be in conflict with planning policies that seek to promote and protect public interests, and this is not outweighed by other considerations. Accordingly, the degree of interference would be insufficient to give rise to a violation under Article 8 and therefore would not result in a disproportionate burden.
36. Therefore, for the reasons given, I conclude that the appeal on ground (a) should fail, and that planning permission should be refused in respect of the deemed planning application.

The appeal on ground (f)

37. This ground of appeal is that the requirements of the notice exceed what is necessary to remedy any breach of planning control.
38. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred; the second is to remedy an injury to amenity which has been caused by the breach. The fact that the notice in this case requires the cessation of the use of the dwelling as a large HMO along with the removal of all fixtures and fittings that facilitate the use as a large HMO, along with the clearance of all resultant debris, suggests that its purpose is to remedy the breach of planning control.

39. The appellant takes issue with the requirement to remove all fixtures and fittings that facilitate the use as a large HMO and to clear all resultant debris. However, this represents the Council properly seeking to discontinue the unauthorised use and restore the property to its previous condition before the breach took place pursuant to s173(4) of the Act.
40. The appellant suggests that the retention of ensuite bathrooms and the large well furnished kitchen would be desirable in a single dwellinghouse and therefore their removal is not necessary to remedy the breach of planning control. Nevertheless, the notice does not specifically require the removal of the kitchen area and I accept that a large well furnished kitchen would be necessary to serve the property as a large family home.
41. However, fixtures and fittings in the form of some ensuite facilities, in rooms that would ordinarily provide family living space, will need to be removed as these clearly facilitate the use of the property as a large HMO. Therefore, the removal of such fixtures and fittings is necessary to resolve the breach of planning control. This requirement, along with the clearance of all resultant debris, does not, in my view, exceed what is necessary and are the least onerous to prevent the resumption of the unauthorised use.
42. The enforcement regime is intended to be remedial and not punitive. However, omitting the requirement to remove all fixtures and fittings that facilitate the use as a large HMO would not remedy the breach of planning control in its entirety. No lesser steps have been put forward that would achieve that purpose.
43. Therefore, the ground (f) appeal must fail.

Overall Conclusion

44. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

J M Tweddle

INSPECTOR