



Appeal Decision

Site visit made on 7 March 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2023

Appeal Ref: APP/Y5420/W/22/3311734

37 Boundary Road, Tottenham, London N22 6AS

- 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 Mrs M Larijani on behalf of KIKS Group Ltd against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2022/1775, dated 11 June 2022, was refused by notice dated 14 October 2022.
 - The development proposed is the change of use from a dwelling (C3 use) to a 6-bedroom, 6 Person HMO (C4 Use) including rear dormer and installation of two rooflights in front roof slope.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs M Larijani on behalf of KIKS Group Ltd against the Council of the London Borough of Haringey. This application is the subject of a separate decision.

Main Issues

3. The main issues of the appeal are:
 - Whether the proposal would comprise car-free development that would encourage walking, cycling and the use of public transport.
 - Whether the proposed development would provide satisfactory living conditions for future occupiers; and

Reasons

Car Free Development

4. The appeal site has no on-site parking facilities. The site is located within the Wood Green (Outer) Controlled Parking Zone (CPZ) with on-street parking reserved for permit-holders only from Monday to Saturday, between 8am and 6.30pm. The evidence before me indicates that the area where the appeal site is located has a Public Transport Accessibility (PTAL) rating of 4.
5. In order to ensure the safe and efficient operation of the highway network by managing access to parking in the vicinity of the site it would be necessary to ensure the development be car-free. The Council suggest that this would be achieved if residents of the HMO were not entitled to apply for a resident's parking permit or visitor permit voucher. The Council's Transportation Team

advise that the appellant would be required to agree this via a Section 106 agreement. The requirement for a completed planning obligation is made clear in the officer report and in the previous appeal decision¹.

6. I have had regard to the comments of the appellant that they would accept this requirement and have indicated that a S106 agreement would be submitted alongside the appeal. The legal certainty provided by a planning obligation makes it the best means of ensuring that these arrangements are effective. In the interests of certainty this would need to be in place before planning permission is granted. However, despite the appellants agreement to provide the necessary obligation, no such document has been submitted.
7. Therefore, in the absence of a suitable planning obligation, the development would not be car-free and would therefore not encourage the use of walking, cycling or the use of public transport over private vehicles. In that regard it would conflict with the sustainable transport requirements of the National Planning Policy Framework (the Framework), Policies T6 of the London Plan 2021 and DM32 of the Haringey Development Management Development Plan Document (2017) (DPD). These policies support car-free development in CPZs with a PTAL rating of at least 4.

Living Conditions – Future Occupiers

8. Policy D6 of the London Plan requires new housing development to be of high-quality design, providing comfortable and functional layouts, benefiting from sufficient daylight and sunlight, and to provide adequate outdoor amenity space.
9. The Haringey Standards for Houses in Multiple Occupation (2017) (HMO Standards) sets out amongst other things requirements for kitchen facilities within HMOs. It states that in circumstances where some or all of the units of accommodation do not have exclusive kitchen facilities, shared facilities shall be provided at a ratio of one set of facilities to a maximum of three lettings. The HMO Standards also states that where more than one set of shared kitchen facilities are required, these may be provided within one room, but must be arranged in distinct areas for the convenience of the occupiers.
10. The drawings provided illustrate that two sinks and two hobs would be provided and there is no evidence before me that it would not be possible to provide sufficient worktop, refrigeration and freezer, cupboard and refuse disposal space. I observed during my site visit, that there was sufficient space within the existing kitchen to provide such facilities. Therefore, I am satisfied that the kitchen facilities provided would be sufficient to cater for the proposed 6 residents.
11. One of the proposed bedrooms would be located within the loft space, in a newly created second floor of the property. With regard to the Council's concern that the proposed loft bedroom would be more than one floor away from the communal kitchen, the appellant has drawn my attention to Paragraph 3.5 of the HMO Standards. This confirms that this requirement may be waived where a suitable, adequately sized dining room or dining area is provided for the occupiers of such lettings either on the same floor as, or no more than one floor distant, from a kitchen.

¹ APP/Y5420/W/21/3281193

12. Although not expressly shown on the submitted drawings, I observed on my site visit that the existing kitchen would appear to be of ample size to provide a dining area. The previous appeal decision on this site² also found that adequate facilities could be provided. As such, the proposal would be in accordance with the HMO standards in this regard.
13. It is acknowledged that some of the bedrooms within the property exceed the minimum size requirement of 15m² for two-person occupation, which has given rise to concerns that the occupancy of the HMO will exceed 6 persons. Whilst this is not disputed, the application is seeking approval for a 6 person HMO, falling into Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The use of the property by more than 6 persons, would constitute a material change of use and could therefore be controlled by the Council.
14. I have had regard to the position of the Council in relation to the quality of accommodation to be provided and adherence to their standards; however, based on the information provided, I have not identified any conflict with the Council's HMO Standards. I have considered the proposal on the particular circumstances of the case.
15. Consequently, I conclude, that the proposal would provide satisfactory living conditions for future occupiers. It would comply with the requirements for new housing to meet space standards and provide comfortable and functional layouts in Policy D6 of the London Plan, Policies SP2 and SP11 of the Haringey Local Plan Strategic Policies (2013) (LPSP) and Policy DM12 of the DPD. For reasons set out, the proposal would also comply with the HMO Standards.

Other Matters

16. The evidence provided by the appellant states in the last 3 years the Council has not met its housing requirement. The Council have not provided any evidence to contradict this position. Accordingly, the Framework states that development plan policies which are most important for determining the application may be considered out-of-date. As a result, paragraph 11d(ii) of the Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. The proposal would make a modest contribution to the housing mix in the area. It would also be in a location that is accessible to local services, with a PTAL rating of 4 indicating good access to public transport. However, in the absence of a suitable planning obligation, the development would conflict with the aims of the development plan and national policy for the reasons set out above. This would significantly and demonstrably outweigh the identified benefits of the proposal when assessed against the policies of the Framework.

Conclusion

18. I have found that the proposal would provide acceptable living conditions for future occupiers. However, in the absence of a suitable planning obligation, the development would not facilitate car-free development. The proposal would therefore conflict with Policy T6 of the London Plan and Policy DM32 of the

² Appeal Reference: APP/Y5420/W/21/3281193

DPD. Although I have not found other conflicts with the development plan, this means that the proposal would conflict with the development plan as a whole. I have not found any material considerations to outweigh the conflict with the development plan. Therefore, I conclude that this appeal should be dismissed.

K Lancaster

INSPECTOR