



Appeal Decision

Site visit made on 11 July 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/G5750/W/22/3312978

41 Shaftesbury Road, Forest Gate, Newham, London E7 8PF

- 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 J Patel against the decision of the Council of the London Borough of Newham.
- The application Ref 22/01601/COU, dated 29 June 2022, was refused by notice dated 15 November 2022.
- The development proposed is change of use to a House in Multiple Occupation.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within an area that is subject to an Article 4 Direction, requiring a planning application to be submitted for the change of use of a dwelling in use class C3 to a House in Multiple Occupation (HMO) in use class C4. From my understanding of the evidence the appeal property may already have been in use as an HMO and it is the subject of an ongoing enforcement notice in relation to its use as an HMO without planning permission. I have no clear reason not to consider the appeal on the basis that the appeal property's authorised use is a dwellinghouse (use class C3).

Main Issues

3. The main issues are the effect of the proposal on the:
 - character of the street and surrounding area, with particular reference to the balance and mix of housing and the living conditions of occupiers of existing dwellings; and
 - standard of accommodation for the future occupiers of the HMO.

Reasons

Character

4. In managing the delivery of a mix of housing, Policy H3 of the Newham Local Plan 2018 (NLP) requires HMOs to be purpose built or converted from premises other than family-sized dwellings and should be directed to Town and Local Centres and along Key Movement Corridors. Policy H4 of the NLP protects 3 bed and 4+ bed family housing in order to re-shape the existing housing stock. In adopting this approach, the Council recognises that the greatest housing need within the Borough is for family sized dwellings and the overarching

strategy of stabilising the population, includes a focus on protecting family housing and restricting HMOs.

5. The appeal property is a family sized dwelling located in a primarily residential street away from the main traffic routes and movement corridors. Consequently, it is not a type of property nor is it in a location where the change of use to an HMO would be acceptable in policy terms. While it may be that there are only a limited number of converted houses on Shaftesbury Avenue, the proposal would result in the loss of a family sized home and exacerbate a situation which already requires careful management and has been identified by the Council as a concern requiring permitted development rights to be removed through an Article 4 Direction.
6. The occupiers of an HMO are more likely than not to lead independent lives from one another. Taking account of the size of the appeal property, the activity generated by several persons living independent lives, with separate routines, and their attendant comings and goings along with those of their visitors, would lead to a level of activity that would be more marked and intensive than that which could reasonably be expected to be associated with a single household. Consequently, there would be an increase in noise and disturbance, and a significant difference to the character of the activities from that which has gone on previously, to the detriment of the living conditions of neighbouring occupiers. There were no objections from neighbouring occupiers to the scheme, however, this is not a reason, in itself, to allow harmful development.
7. Even if the property could accommodate a family of up to 12 people, which is suggested would cause more disturbance than up to 6 people in an HMO, it is the pattern of use which is the more significant factor rather than the number of occupants. The appellant has also suggested that the property could be used as a supported housing scheme by not more than six residents living together as a single household where care is provided for residents, which would also result in the loss of a family dwelling, and this is a fallback position. However, no further details of such proposals are before me. Additionally, there is no clear evidence that if the appeal is dismissed the fallback would be pursued. Therefore, I find the suggested fallback position to have limited weight in the determination of the appeal.
8. While an HMO licence may have been issued for the appeal property, this relates to powers under housing legislation which operate separately to the planning system. As such, the weight afforded to any HMO license at the property as a specific measure for planning purposes is limited because of this. No external changes to the building are proposed and as such there would be no effect on the appearance of the street scene. Policy compliance on this matter and others raised by the appellant in their submissions are however, of limited weight in the determination of this appeal.
9. For the reasons set out above, the proposal would cause harm to the character of the street and surrounding area, with particular reference to the balance and mix of housing and the living conditions of occupiers of existing dwellings, in conflict with policies GG1, GG3, GG4, D3, D8, D14, H8 and H10 of the London Plan (LP) (2021) and policies S1, S6, SP1, SP2, SP3, SP8, H1, H3 and H4 of the NLP. Amongst other things, these policies seek mixed and inclusive communities with homes that meet high standards of design and provide for

identified needs, including protecting family housing. Development is required to be suitably located, having regard to local character and distinctiveness and the function of buildings, achieving good neighbourliness and avoiding negative impacts on the wellbeing of communities.

10. It would also be contrary to the provisions of the National Planning Policy Framework (the Framework) at Section 12 which seeks inclusive development which functions well and adds to the overall quality of an area, does not undermine quality of life or community cohesion and functions well.

Standard of Accommodation

11. The appeal property is spacious. However, the internal layout and configuration of the accommodation would be poor, owing to the location of Bedroom 1 and Bedroom 2 next to the front door and the adjacency of these rooms to the hallway and stairs, resulting in inadequate living conditions for the occupiers. Given the likely pattern of use and associated number of comings and goings both into and out of the property, and to access the communal areas to the rear of the ground floor, the occupiers of these bedrooms would experience unacceptable levels of noise and disturbance. As such, the scheme would not result in a home 'as a place of retreat' as sought by the LP.
12. Consequently, the proposal would result in an unacceptable standard of accommodation for the future occupiers of the HMO, in conflict with policies D4 and D6 of the LP, and policies SP1, SP2 and H1 of the NLP. These policies, amongst other things, require housing development to be of a high quality design and provide comfortable and functional layouts. The proposal would also be contrary to the provisions of the Framework in relation to design, including Paragraph 130 which seeks development that creates a high standard of amenity for existing and future users.

Other Matters

13. The appellant has expressed frustrations with the Council's handling of the case, however this has not affected my consideration of the planning merits of the scheme.

Conclusion

14. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

F Harrison

INSPECTOR