



Appeal Decision

Site visit made on 22 August 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref: APP/G5750/W/23/3316762

28 Jade Close, West Beckton, Newham, London E16 3TY

- 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 Selim Melek against the decision of the Council of the London Borough of Newham.
 - The application Ref 22/02407/FUL, dated 12 October 2022, was refused by notice dated 18 January 2023.
 - The development proposed is described as 'retrospective change of use from a 4 bed dwelling (C3) to a 4 Bed HMO (C4).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. From my understanding of the evidence the appeal property is already in use as an HMO, and it is the subject of an ongoing enforcement notice. Nevertheless, for the avoidance of doubt, the appeal has been determined based on the appeal drawings.

Main Issues

3. The Main issues are:
 - the effect of the change of use on the Borough's supply of family housing;
 - whether the development provides satisfactory living conditions for its occupiers, with particular regard to space, noise and disturbance; and
 - the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Borough's supply of family housing

4. In managing the delivery of a mix of housing, Policy H3 of the Newham Local Plan 2018 (December 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. These policies accord with the National Planning Policy Framework (the Framework), which indicates that planning policies should reflect the housing needs of different groups, including families with children.

5. The appeal property is a family sized dwelling located in a primarily residential street away from the main traffic routes and movement corridors. The change of use has not affected the appearance of the appeal property; however, it is not a type of property nor is it in a location where the change of use to an HMO is acceptable in policy terms. Further, I have no substantive evidence before me to suggest that the use of the appeal property as an HMO optimises the potential of the site or is a more effective use of land. Consequently, the change of use has resulted in the loss of a family sized home, in conflict with the Council's specific intention to retain dwellings of this type.
6. Given the above, I conclude that the change of use has materially harmed the Borough's supply of family housing. The proposal conflicts with Policies GG4, H8 and H10 of the London Plan (2021) (LP) 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 are suitably located and provide for identified needs, including family housing. It also conflicts with the Framework which requires development to take into account identified needs for different types of housing.

Living conditions of occupiers of the HMO

7. The appeal property is in use as a 4-bedroom HMO. The bedrooms range in size from 6.9 m² to 15 m² and all exceed 2.15 m in width. Whilst the appellant refers to HMO East London Guidance and Newham's Private Rented Property Licencing Guide for Landlords and Managing Agents for minimum space standards, these are only guidance documents. LP Policy D6 and NLP Policy H1 provide clear minimum space standards for all dwellings. While adequate indoor and outdoor communal areas are provided, Bedroom 3 fails to meet the 7.5m² minimum floor area required by policy.
8. Further, the internal layout and configuration of the accommodation is poor, owing to the location of Bedroom 1 next to the front door and the adjacency of these rooms to the hallway and stairs. 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 occupier of this bedroom would experience unacceptable levels of noise and disturbance. As such, the development does not result in a home 'as a place of retreat' as sought by the LP.
9. Consequently, the development does not provide satisfactory living conditions for its occupiers, with particular regard to space, noise and disturbance. It conflicts with Policies D4 and D6 of the LP, and Policies S1, SP1, SP2, SP3, H1 and H4 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 is also in conflict with the Framework which seeks to ensure development creates a high standard of amenity for existing and future users.

Living conditions of occupiers of neighbouring properties

10. The surrounding properties appear to be in residential use. The appellant argues that the HMO has no greater impact on the living conditions of neighbouring occupiers than if the property was occupied as a single-family dwelling with young children/adults. Further, the appellant suggests that the

current occupiers are professionals with routine work schedules and life patterns which are less disruptive to neighbouring occupiers.

11. Notwithstanding the current occupants of the property, the occupants will change over time and during my site visit I observed four separate bedrooms. As such, the HMO comprises up to four unrelated individuals/couples, all of whom have their own separate work/domestic regimes and attract their own visitors and deliveries at different times during the day and evening. In this respect, the HMO use is likely to have increased the volume of movements to and from the property, than a single-family dwelling, and the range of times when these activities take place.
12. In addition, the HMO use, with four separate individuals/couples using the rear garden for recreation and for entertaining visitors is likely to have resulted in a more intensive use of the garden than would be the case with a single family occupying the property. Consequently, I am satisfied that there has been an increase in noise and disturbance to neighbouring occupants as a result of the development.
13. Therefore, I conclude that the development has had a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. This conflicts with Policies GG1, GG3, GG4, D3, D8, and D14 of the LP and Policies S6, SP2, SP3, SP8, H1 and H3 of the NLP. Amongst other things these state that all development is expected to achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive social, environmental and design impacts for neighbours and improve health and wellbeing and quality of life. Further, the proposal conflicts with the Framework which requires all developments creates places with a high standard of amenity for existing and future users.

Other Matters

14. The proposal has not affected the character and appearance of the area or waste management arrangements. It is accessible, provides sufficient levels of parking and has a low flood risk. However, these are neutral matters which neither weigh in favour of, or against the proposal.
15. My attention has been drawn to a large number of HMOs in the area. However, I have not been provided with the details of the properties or their HMO licenses. Consequently, I am unable to complete a thorough comparison with the appeal case before me. Moreover, the existence of other HMOs in the area is not a reason in itself to allow unacceptable development to take place.

Conclusion

16. For the reasons given above, I conclude that the development conflicts with the development plan as a whole and there are no material considerations, including the Framework that would outweigh that conflict. Therefore, the appeal is dismissed.

K Allen

INSPECTOR