



Appeal Decision

Site visit made on 10 October 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/U5930/W/23/3319936

18 Forest Drive West, Leytonstone, Waltham Forest E11 1LA

- 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 Ms Lubna Pervave against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 223087, dated 25 October 2022, was refused by notice dated 22 March 2023.
 - The development proposed is construction of dormer roof extension to main rear roof, together with installation of three roof lights to front roof slope and alteration to ground floor rear elevation fenestration in connection with change of use of use of 12-person HMO (Sui Generis) to five residential unit- 5 x 1-bedroom self-contained flats (Class C3) with associated hard and soft landscaping; refuse and recycling facilities and secure cycle storage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Lubna Pervave against the Council of the London Borough of Waltham Forest. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development on the application form does not include the proposed change of use. I have therefore taken the description of development in the banner heading above from the Council's decision notice, which is also given on the appeal form, as such, I am satisfied that no party is prejudiced by my use of it.

Background and Main Issue

4. There are two reasons for refusal, relating to the loss of a family home and the absence of a mechanism to secure a number of planning obligation requirements. However, since the application was refused, a Unilateral Undertaking has been prepared which, subject to amendments, the Council indicate would secure the necessary requirements.
5. With this in mind, the main issue is therefore the effect of the proposal on the supply of family homes in the borough.

Reasons

6. The Waltham Forest Local Plan Core Strategy (2012) (CS) and the London Borough of Waltham Forest Development Management Policies Local Plan (2013) (DMP) aim to create a mixed and balanced community by seeking a range of home sizes and resisting the loss of any existing larger homes. There is a clear policy requirement to protect family homes in the borough which experiences higher than national average levels of overcrowding and an over concentration of conversion to self-contained flats.
7. Policy DM6 of the DMP states that the conversion of larger family homes to smaller self-contained homes will not be permitted where a site lies within a restricted dwelling conversion ward. The appellant has not contested that the appeal site falls within a restricted dwelling conversion ward. The location in such a ward indicates that there are already a significant number of properties in the area which have been converted into smaller homes and that existing larger homes should be protected.
8. It is not in dispute that the appeal property's lawful use is as a large House in Multiple Occupation (*sui generis*) and not a dwellinghouse (use class C3). The appellant suggests that as such, policies to prevent the loss of family homes do not apply to the appeal scheme. However, my attention has not been drawn to any wording in the relevant policies to indicate that only properties in use class C3 constitute family homes. Rather, Policy DM5 explains that, for the purposes of the development plan, a larger family home is those properties that have three or more bedrooms, as opposed to a smaller home, with one or two bedrooms.
9. The appeal property currently has four upstairs bedrooms and has not been subject to significant internal or external alteration such that the property could not be readily occupied by a family. Irrespective of its use as a large HMO, occupied by separate households as the appeal scheme would be, the property is currently physically capable of being a family home and it meets the policy definition of a family home. The proposed development would result in the subdivision of the property into five self-contained one-bedroom flats and would therefore result in the loss of a larger family sized home that the development plan identifies a need for.
10. The Planning Practice Guidance is clear that pre application advice is not binding, however I note that the Council's pre application advice did indicate, amongst other things, that Policy DM6 would not apply to a property in use as an HMO. Nevertheless, the advice also indicated that the borough has an identified shortage of family housing, the provision of studio flats is generally not supported and suggested that housing proposals should contain a mix of large and small homes. Moreover, Policy CS2 of the CS seeks the re-establishment of HMOs into single family sized houses and Policy DM5 of the DMP resists development proposals containing only smaller homes. As such, the proposal is not the type of housing that the development plan is seeking to contribute to maintaining a mixed housing offer across the borough.
11. The proposal would therefore harm the supply of family housing in the borough, in conflict with Policy CS2 of the CS and Policy DM5 of the DMP. Amongst other things, these policies resist the loss of larger homes, require housing developments to provide a range of dwelling sizes, focussing on larger family sized homes and do not support proposals containing only smaller homes.

12. The Council also alleges a conflict with Policy CS15 of the CS and Policies DM7 and DM29 of the DMP with regards to this matter. These policies refer to well-designed buildings, places and spaces, design principles and external amenity and internal space standards. My attention has not been drawn to any words in these policies that are relevant to this main issue and as such, have not therefore been determinative in my decision.

Other Matters

13. I note that the Council have raised concerns with regard to the proposed cycle storage in the rear garden and the effect this would have on the pattern of development. However, this matter does not feature in the reasons for refusal on the decision notice and as such, has not affected my consideration of the appeal. In any event, the scheme is unacceptable for other reasons.
14. While the appellant has expressed frustrations with the Council's handling of the case, this does not alter or outweigh my findings which are based on the planning merits of the case.

Conclusion

15. 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