



Appeal Decision

Site visit made on 18 September 2023

by C Livingstone MA(SocSci) (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2023

Appeal Ref: APP/Y5420/W/23/3317848

187 Westbury Avenue, Wood Green, Haringey, London N22 6RX

- 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 Mehmet Huseyin against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2022/4030, dated 7 November 2022, was refused by notice dated 6 January 2023.
 - The development is described as 'use of property as a 6 person HMO'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the application form, but removed reference to permission being sought on a retrospective basis, as this is not an act of development.
3. The property was already in use as a House in Multiple Occupation (HMO) at the time of my visit. I have therefore determined the appeal on the basis.
4. The appellant submitted an unsigned and undated Unilateral Undertaking in relation to the appeal. A signed and dated version was requested, however this was not forthcoming.
5. The second reason for refusal states that the development is 'contrary to Policies D12, DM17 and DM35 of the Council's Development Management DPD (2017)'. Based on the information provided by the Council it is reasonable to accept that 'D12' is an error and the reason for refusal is referring to the Council's Development Management DPD (2017) Policy DM12.
6. The Council state that two of the bedrooms are larger and could potentially accommodate two people rather than one. However, no local planning policy regarding size of bedrooms and occupancy has been provided. Therefore, my assessment is based on the description of the development as stated on the planning application form.

Main Issues

7. The main issues are:
 - The effect of the development on the supply of family housing;
 - Whether property provides suitable living conditions for its occupants, with regard to shared facilities and cycle parking provision; and

- The effect of the development on the living conditions of the occupiers of neighbouring properties, with reference to increased activity and noise.

Reasons

Family housing

8. The appeal property is a mid-terrace house in a residential street of largely two storey, terraced housing. The appeal is for the continued use of the building as an HMO with bedrooms on the ground floor, first floor and in the attic; and communal living areas on the ground floor.
9. The size and configuration of the house and garden mean that it would presently be suitable for family accommodation including those with young children. The effect of the change of use is that the house is no longer available for accommodation on such a basis. While the Council recognises the role HMOs play in meeting housing demand, they note that there is significant need for family housing. The conversion of existing family homes to HMOs further reduces their availability. To this end, an Article 4 direction came into effect in the area on November 2013 to remove the permitted development rights of property owners to convert a single dwellinghouse to a small HMO.
10. Under the terms of Policy DM17 of the Development Management DPD 2017 (DPD) the Council seek to manage the number of HMOs in the Borough. The first criteria under this Policy is the requirement that dwellings proposed for conversion to an HMO must have an original internal floor space of more than 120 square metres as the Council is seeking to preserve smaller homes for family accommodation. While there is dispute between the main parties regarding the precise original internal floor area of the building, both parties state that it is less than 120 square metres. As such the development is contrary to Policy DM17 in this respect.
11. The submitted evidence states that the building, as extended, has an internal floor area of approximately 144.4 square metres. Based on the submitted planning history, it is acknowledged that the extension was erected some time ago and was not carried out in order to circumvent the terms of Policy DM17. Notwithstanding this, Policy DM17 relates to the minimum floor area of the building as originally erected rather than as extended.
12. For the reasons stated above the development has a harmful effect on the supply of family housing. It therefore does not accord with DPD Policy DM17 which requires that small family homes are not converted to HMOs and DPD Policy DM10 and SP2 of Haringey's Local Plan Strategic Policies 2013 (LP) which seek to provide a variety of housing types to meet the needs of the community.
13. In reaching the above conclusion I do not find conflict with Policy H8 of the London Plan 2021 as this policy relates to the demolition and replacement of existing housing.

Standard of accommodation

14. The Council recognise the problems associated with poor quality HMOs in the Borough that provide sub-standard living conditions and a lack of investment in housing stock. Under the terms of DPD Policy DM17, the Council requires that

- an HMO must provide high quality accommodation, this includes a satisfactory level of amenity space for occupants.
15. The Council raises no concerns regarding the HMO bedroom sizes. Based on the submitted plans and following a site visit I have no reason to take a different view. Notwithstanding this, the dispute between the main parties relates to the adequacy of the shared facilities internally. Even with bedrooms of an acceptable size, it is reasonable to expect that occupants have suitable space in which to prepare food, dine and mix with fellow residents as social interaction is important for mental health and well-being.
 16. Occupants of the HMO have access to a shared kitchen. It is relevant to note that the Council's Licencing Standard (2017) states that shared kitchen facilities are to be provided in a ratio of one set of facilities to a maximum of three lettings. The provision of these facilities within one room is allowed provided they are 'arranged in distinct areas for the convenience of the occupiers.' The Council's Licencing Standard is a material consideration and at the time of carrying out my site visit the kitchen was arranged over two areas, one of which formed a narrow passage to a shared shower room. This area and the larger kitchen area have limited work surface space and were furnished with only a small table and a single chair. The room that is indicated on the plan as being a living room was not furnished for either communal living or dining. There is some scope to adopt an alternative furniture layout and different groups of residents may have their own preferences, but in my opinion the kitchen and living room are too cramped to enable residents to cook, dine and relax together in comfort.
 17. DPD Policy DM17 requires HMOs are accessible by public transport, cycling and walking. No cycle storage is shown on the submitted plans and based on the evidence before me there is no cycle storage provision as existing. The property is mid-terrace and there is no external access to the rear garden. However, it is reasonable to move a bicycle through the dwelling to a cycle store in the rear garden, where there is sufficient space to erect a cycle store. Had I otherwise been minded to allow this appeal, a suitably worded condition could have secured the provision of a cycle store for the occupiers of the HMO.
 18. The Council note that the application site is a car free development within a controlled parking zone. Based on the evidence before me the application site is within a sustainable location within a reasonable walking distance to shops and public transport links.
 19. I acknowledge that each bedroom has windows or glazed doors on either the front or rear elevation. Therefore, the occupant of each room has access to daylight and a suitable outlook. I also accept that the garden is of sufficient size for outdoor relaxation. Notwithstanding this, the deficiencies of the communal kitchen and living area lead me to the conclusion that the HMO fails to provide an acceptable living environment for its occupants.
 20. Having regard to all of the above, the property fails to provide suitable living conditions for its occupants, with regard to shared facilities. There is therefore conflict with the requirements of DMD Policy DM17 in relation to the quality of accommodation and DM12 of the DPD and Policy D6 of the London Plan (2021) where these policies seek to ensure occupants have safe accommodation with comfortable and functional layouts. In reaching the above conclusion I do not find conflict with DMD Policy DM35 as cycle storage is not proposed within the

front garden and, had I been minded to allow this appeal cycle storage could be provided in the rear garden.

Living conditions

21. Based on the evidence before me, and my own observations, it is reasonable to suggest that the property could be a four bedroom house and is currently in use as a six bedroom HMO. It is put to me that as no alterations are proposed as part of the change of use and the continued use of the building as an HMO would not result in increased noise or disturbance. Also, good management practice can be put in place to manage occupant behaviour.
22. It is evident from the information before me that HMOs are not directly comparable to family dwellings, mainly because they appeal to different client groups such as students and young professionals, requiring short term accommodation. Notwithstanding this the level of activity of six adults living independently is unlikely to be significantly greater than that of a single family household. I note that the HMO has been in operation for some time and the Council has provided no substantive evidence to demonstrate that this use has resulted in disturbance to neighbouring properties.
23. The terraced form of development in Westbury Avenue results in properties that are close to one another, separated at the front by low walls. This proximity, together with the higher housing density means that increased levels of noise and disturbance would be expected.
24. For the reasons, detailed above the development I do not find conflict with the objectives of DMD Policy DM1 and DM17 where these policies seek to protect living conditions of residents of neighbouring properties.

Other Matters

25. Whilst it is clear that HMOs provide much-needed housing accommodation within the city, they need to be subject to careful control in existing residential areas. In this case the benefit of providing an HMO in this location is outweighed by the harm.

Conclusion

26. The development would result in the loss of a small family home in an area where there is an identified need to preserve this particular type of accommodation. The property also fails to provide suitable shared facilities for occupants. While I have found that no harm would result to the living conditions of neighbouring occupants, this is a neutral consideration in my determination of the appeal.
27. There are no material considerations to indicate that this appeal should be determined otherwise than in accordance with the development plan, and therefore the appeal is dismissed.

C Livingstone

INSPECTOR