



Appeal Decision

Site visit made on 13 December 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2024

Appeal Ref: APP/G5750/W/23/3320129

8 Maybury Road, Plaistow, London E13 8RZ

- 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 A Choudhury on behalf of A & A Partnership against the decision of the Council of the London Borough of Newham.
 - The application Ref 22/02436/FUL, dated 14 October 2022, was refused by notice dated 23 January 2023.
 - The development proposed is described as the “retention of change of use from residential house to continued use as HMO”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party’s interests have been prejudiced by taking this approach.
3. 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 a larger HMO (Sui Generis), and it is the subject of an ongoing enforcement notice in relation to its use as an HMO without planning permission. However, this appeal relates to an application for a HMO (Use Class C4) use, I have considered the appeal accordingly.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the supply of family sized housing within the Borough;
 - Whether the proposed development would provide adequate living conditions for future occupiers with particular regard to noise and disturbance and access to private amenity space; and
 - The effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

Supply of Family Sized Housing

5. The appeal site is a two-storey, end terrace property, with a converted loft space. The area is predominantly residential and is characterised by mostly two storey semi-detached or terraced properties.
6. The proposal would involve the change of use of an existing family-sized dwelling to a small House of Multiple Occupation (HMO). The submitted plans indicate that the appeal property would provide 4 single occupancy bedrooms and a further double occupancy room. There would be no external changes to the appearance of the property.
7. Policy H1 of the Newham Local Plan 2018 (NLP) seeks to secure a significant increase in the provision of family housing. Policies S1 and H4 of the NLP states that the Council will seek to protect family housing with more than three bedrooms. The policy is supported by justification that the projected growth in households over the local plan period effectively means that there should be no (net) reduction in the housing stock, with a particular emphasis on protection of family housing. Policies H3, S1 and S6 of the NLP also place emphasis on the support for larger family housing within the Borough.
8. Based on the evidence before me, prior to the unauthorised change of use of the appeal property to a larger HMO (*sui generis*), the property comprised a 4-bed dwelling. As such, the proposed change of use to a small HMO, would result in the loss of accommodation suitable for a family, for which there is an identified need.
9. Therefore, even if the appeal site is located a part of the Borough that retains a higher proportion of family housing, the policies of the NLP, unless specified otherwise, are applied across the Borough. Moreover, while policy H4 sets out the circumstances in which subdivision or conversion may be appropriate, the appeal scheme does not meet the criteria contained within the policy as it is not located above a commercial unit, nor has it resulted in a new 4-bedroom family dwelling unit. The supporting justification for Policy H4, set outs that Newham will fail to provide enough family housing if it does not both increase the rate of new provision and hold onto existing family stock. Therefore, whilst I recognise that there is no specific policy presumption against HMO uses, the NLP is clear in relation to the priority it gives to retaining family-sized homes.
10. Consequently, the proposal would result in unacceptable reduction in the supply of family housing within the Borough, contrary to Policies S1, S6, SP1, SP2, SP3, H1, H3, and H4 of the NLP and Policies GG4, H8 and H10 of the London Plan. These policies seek, amongst other things, to resist the loss of existing larger family-sized homes and which seeks to create mixed and inclusive communities, with good quality homes that provide for identified needs.

Living Conditions (Future)

11. Policy SP8 of the NLP states that development proposals will be expected to make appropriate provision for communal spaces and private amenity spaces (e.g., bedrooms and places of retreat) in multiple-user buildings (including HMOs).

12. The appeal property would be configured as a 5-bedroom, 6 person HMO, with room sizes ranging from 11m² to 6.5m², which means that some of the bedrooms would fall below the minimum standard set out in Policy D6 of the London Plan. Additionally, the kitchen layout provides no provision for dining, meaning that occupants would be most likely to need to eat meals in their own rooms, rather in communal spaces. Whilst the minimum space standards set out in Policy D6 of the London Plan are not specific to HMO accommodation, there is still an expectation that any accommodation provided would be high-quality and provide functional and comfortable layouts.
13. In respect of Bedroom 1, the internal layout of the ground floor accommodation is such that it means that this bedroom would also be located close to the main entrance, communal kitchen, and bathroom, as well as the entrance to the 'Landlords Office'. Taking into account the likely patterns of use and associated number of comings and goings both into and out of the property, and to access the main communal areas on the ground floor, the future occupier of this bedroom would be likely to experience unacceptable levels of noise and disturbance. Furthermore, no details have been provided with regards to the future use of the 'landlord' spaces and in the absence of any such evidence, I find that it has not been demonstrated the future occupier of bedroom one would not experience unacceptable levels of noise and disturbance generated by the comings and goings associated with the use.
14. The proposed plans show that access to outdoor amenity space would be via areas labelled as 'Landlords Office' and 'Landlords Storage'. At my site visit I observed that these spaces are capable of being locked and are currently used predominantly for storage purposes, with no access to the rear garden currently available. I have not been provided with any evidence that demonstrates that access to the rear garden would be possible for any tenant of the proposed HMO meaning that the future occupants would have no access to outdoor amenity space. Therefore, whilst I have had regard to the appellants statement that a HMO licence¹ has been granted by the Council, I find that the accommodation would not provide adequate living conditions for future occupiers, having regard to the policies within the NLP.
15. My attention has been drawn to the existence of public open space in the local area, including Prince Regent Lane Playing Fields. The appellant suggests that the provision of outdoor amenity space is not a requirement, as the property will no longer be family housing. However, whilst there is no specific policy requirement which requires a set out amount of private external space for HMOs, Policy SP8 expects appropriate provision of private amenity spaces. Furthermore, in this particular case, the existing property benefits from a large garden, which could, if the internal layout was amended be accessible to future tenants.
16. Consequently, for the above reasons, the proposed development would not provide satisfactory living conditions for future occupiers, particular regard to noise and disturbance and access to private amenity space. It would therefore conflict with Policies D4 and D6 of the London Plan, 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 including the provision of communal spaces and private

¹ Ref: 21.02156/HOHMOL

amenity spaces in multi-user buildings. 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 (Existing)

17. Although the proposed change of use would remain a residential type of use, due to the occupants being unrelated it would be likely to generate an increased level of comings and goings, which would be materially different to those of a single family. This would therefore lead to a potential increase in noise and disturbance experienced by neighbouring properties.
18. Whilst this harm may not be sufficient on its own to warrant dismissal, it nonetheless adds to my primary concern regarding the effect of the development on the availability of family housing, and the inadequacy of the proposed accommodation.
19. Consequently, the proposed development would result in harm to the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. The proposal would therefore be contrary to Policies GG1, GG3, GG4, D3, D8 and D14 of the London Plan and Policies S6, SP2, SP3, SP8, H1 and H3 of the NLP. These policies expect, amongst other things, development to avoid creating unacceptable exposure to noise and disturbance.

Other Matters

20. The appeal site is within the 6.2km Zone of Influence of the Epping Forest Special Area of Conservation (SAC). The SAC is protected under the Conservation of Habitats and Species Regulations 2017. Therefore, had I concluded that the development would be acceptable in terms of the main issues set out above, it would have been necessary to investigate the effect of the proposal on the integrity of the SAC as part of Habitats Regulation Assessment and Appropriate Assessment. However, given the harm identified above and that I am dismissing the appeal for other reasons, I have not considered this matter further.

Conclusion

21. For the above reasons, the proposed change of use would be in conflict with the development plan as a whole. There are no material considerations of sufficient weight which indicate that a decision should be taken otherwise in accordance with the development plan. Therefore, the appeal is dismissed.

K Lancaster

INSPECTOR