



Appeal Decision

Site visit made on 23 January 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

Appeal Ref: APP/U5930/W/23/3325881

21 Pembar Avenue, Walthamstow, Waltham Forest E17 6HN

- 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 Mrs Anne Murrell against the decision of the London Borough of Waltham Forest.
 - The application Ref 230239, dated 31 January 2023, was refused by notice dated 12 June 2023.
 - The development proposed is change of use of C3 dwelling house to small HMO (C4) (Retrospective)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (Framework) in December 2023, replacing the previous version dating from September 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.
3. The evidence before me indicates that the appeal property is already in use as a House in Multiple Occupation (HMO). I have considered the appeal on the basis that planning permission is being sought retrospectively.

Main Issue

4. The main issue is whether the loss of a single family dwelling would conflict with the aims of national and local planning policy to create mixed and balanced communities.

Reasons

5. The appeal site is a two-storey mid-terraced dwelling, with accommodation provided at roof level, located within a predominantly residential area. The area is covered by a borough-wide Direction made under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). The Direction stipulates that planning permission is required for development consisting of a change of use of a building to a use falling within Class C4 (houses in multiple occupation) of the Town and Country (Use Classes) Order 1987 (as amended) from a use falling within Class C3 (dwellinghouses) of that Order.

6. Policy DM 5 of the Waltham Forest Local Plan - Development Management Policies (2013) (DMP) sets out a particular focus in the borough on the provision of larger family sized homes (three bed plus). Policy DM6 of the DMP is concerned with proposals to convert dwellings, including into HMOs. The policy aims to maintain a mixed housing offer across the borough by protecting the existing stock of family housing. To achieve this, Part A of the policy says that the conversion of a larger home to HMO use will not be permitted where i) the original gross internal floorspace is less than 124 square metres, and ii) it is located within a 'Restricted Dwelling Conversion, HMO and Building in Multiple Residential Occupation Ward'.
7. In the case of the appeal property, the appellant has indicated that the original dwelling had a floor area of around 82 square metres. It therefore does not meet the policy criteria for conversion. In addition, the property is within the William Morris ward which is a restricted conversion ward. This indicates that there are already a significant number of properties in the area which have been converted into flats and HMOs.
8. In that respect, the development would further increase the concentration of HMOs in the William Morris ward and this would undermine the requirements in the development plan aimed at maintaining a mixed housing offer. In coming to this view, I have taken into account that prior to the introduction of the Article 4 Direction, permitted development rights would have enabled the change of use from a dwellinghouse to an HMO without the need for planning permission. However, this factor does not affect the acceptability of the appeal proposal in terms of its planning merits.
9. The appellant has undertaken a survey of the surrounding area which suggests that the majority of properties within 100 metres street length of the appeal property are not in HMO use. Whether or not that be the case, no substantive evidence is before me to suggest that the circumstances across the whole William Morris ward have substantially changed since the DMP was adopted. More specifically, it has not been demonstrated that there is no longer a requirement to prevent the conversion of family housing stock to HMOs in this ward.
10. The appellant has suggested that the extensions to the original dwelling ensure that satisfactory living conditions for the occupiers are achieved. Whilst this may be the case, policies DM5 and DM6 which seek to promote and protect family sized homes apply nonetheless.
11. Consequently, I conclude that the proposal would result in an unacceptable loss of a single family dwelling. It would be contrary to Policy CS2 of the Waltham Forest Local Plan Core Strategy 2012 (CS) and Policies DM5 and DM6 of the DMP. These policies, amongst other things, seek to facilitate sustainable housing growth that creates mixed and balanced communities with a range of housing sizes and tenures in new development and resist the loss of single family dwellings within restricted conversion wards in the borough.

Other Matters

12. I recognise that HMOs can provide a more affordable housing option in comparison to self-contained housing, whilst also contributing to meeting a range of housing needs. The appellant indicates that the current residents include two teachers at a school in the borough, and that one of the existing

tenants has lived in the HMO for in excess of four years. Whilst I have been provided with no evidence to back up the appellant's claim about the longevity of the tenants, there were clearly people living in the house at the time I visited.

13. It has been put to me that in the event the appeal is dismissed, the occupiers of the HMO would lose their long-term home and, given the London Borough of Waltham Forest's restrictive policies for HMOs in this area, it would be challenging for them to find similar and comparable accommodation in the area. That the property is already occupied is a material consideration in this appeal, and I am conscious that dismissing the appeal will lead to uncertainty for the existing tenants. However, the development has resulted in the loss of a family sized home, and is contrary to the clear policy objective of protecting this type of accommodation in the borough. This matter weighs strongly against the proposal, which I find to be unacceptable.
14. I understand that the appellant had not realised that the change of use to an HMO required planning permission, and that as soon as this was brought to their attention they liaised with the Council. That the Council has granted an HMO licence in relation to the property does not affect the acceptability of the appeal proposal in terms of its planning merits. The property is well maintained and the appellant states that rents have not been increased since the COVID pandemic. Regardless, I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
15. All other matters including the quality of accommodation were found acceptable by the Council. However, the lack of harm related to these matters means that they have no weight either for or against the development when it comes to the planning balance.

Conclusion

16. The development conflicts with the aims of national and local planning policy to create mixed and balanced communities. In this respect, the development would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR