



Appeal Decision

Site visit made on 12 February 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Appeal Ref: APP/Q5300/W/23/3327330

110 Burleigh Road, Enfield EN1 1NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Sattar Shah against the decision of the Council of the London Borough of Enfield.
- The application Ref 23/00706/FUL, dated 4 March 2023 was refused by notice dated 28 April 2023.
- The development proposed was originally described as "*retrospective planning permission for change of use from single family dwellinghouse (Class C3) to a 7-person House in Multiple Occupation (Class C4)*".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. This does not materially change the planning policy context in respect of the main issues, and I have determined the appeal accordingly.
3. 'Retrospective' as referred to in the application form and the decision notice does not constitute an act of development. I have therefore dealt with the appeal on the basis of the plans before me and that planning permission is sought for the change of use from a single family dwellinghouse (Class C3) to a 7-person House in Multiple Occupation (HMO) (Class C4), albeit I have taken planning permission for a 5-bedroomed HMO in the main house and a Lawful Development Certificate for the construction of an outbuilding to the rear of the appeal property, as set out below, into account in reaching my conclusion.
4. The Council have referred to Policies D4 and D8 of the London Plan (2021) in several of the reasons for refusal but as these relate to masterplans and design scrutiny and development in the public realm respectively, they have not been determinative factors in coming to my decision and I will not refer to them further.

Background and Main Issues

5. The appeal property is a period two-storey semi-detached house located in an established residential area close to Enfield town centre. Since the refusal of the planning application which is the subject of this appeal the Council have granted planning permission for a 5-person HMO for the main house¹.

¹ LPA reference: 23/01607/FUL

6. Planning permission was granted on appeal² in September 2022 for a side extension to the property to provide accommodation at the first floor with an undercroft feature at ground floor level allowing direct access to the rear of the property. On my site visit I observed that the development had been carried out. Amended plans showing the extended property have been submitted with the appeal. They show the main house to have 5 bedrooms at first floor level with kitchen and communal rooms at ground floor.
7. I have considered the plans in line with the Wheatcroft Principles³. Although these plans have not been subject to public consultation with regard to the appeal proposal, they reflect the development which has been built and show the main house to have 5 bedrooms. Albeit they are in different locations within the house to that shown on the plans submitted with the planning application, the subject of this appeal. Furthermore, the Council have had the opportunity to comment on the amended plans and have neglected to do so. Therefore, I consider that the development is not so changed that to consider the amended plans would deprive those who should have been consulted on the changed development, of the opportunity of such consultation.
8. The side extension has been built as shown on the submitted plans and the proposal indicates that there would be no change to the number of proposed occupants of the property. I have therefore determined the appeal on the basis that it is for a 7-person HMO with 5 bedrooms in the main house and 2 bedrooms in the outbuilding to the rear of the property as shown on the amended plans submitted with the appeal.
9. The reasons for refusal for this appeal all relate to the outbuilding, which the plans show as providing 2 bedrooms, bathroom, kitchen, stores and communal facilities for the occupants. The Council have referred to the outbuilding as unauthorised in the decision notice. However, a Lawful Development Certificate (LDC) has been granted for an outbuilding, which, from the plans supplied during the appeal, correspond with the details of the outbuilding before me⁴. I am therefore duty bound to take the lawful status of the building into account into the determination of the appeal before me.
10. The main issues are therefore:
 - The effect of the use of the outbuilding as HMO accommodation on the character and appearance of the appeal site and of the area;
 - Whether the outbuilding would provide satisfactory living conditions for future occupiers with particular regard to outlook and privacy;
 - The effect of the use of the outbuilding as HMO accommodation on the living conditions of the existing occupiers of 108 and 112 Burleigh Road with particular regard to outlook, privacy, and light;
 - The effect of the use of the outbuilding as HMO accommodation on the demand for on-street car parking; and
 - The provision of refuse storage and cycle parking for occupants of the outbuilding.

² APP/Q5300/W/22/3292968 dated 3 January 2023

³ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

⁴ LPA reference: 23/02594/CEU

Reasons

Character and appearance

11. Burleigh Road and the surrounding streets are characterised by family housing and appear to be largely in single family occupation. Access to the rear of the property is taken via a wide, open undercroft feature under a recently constructed side extension. At the rear, the land is an unsurfaced yard area within which a flatroofed, detached outbuilding is located towards the back of the plot. It provides living accommodation for two persons. Occupants of the building are able to come and go without having to go through the main house. Occupants of the main house are able to access table tennis facilities in the building.
12. The outbuilding occupies the entire width of the rear of the plot and, because of its wedge shape, takes on a somewhat incongruously large footprint relative to its surroundings and which is significantly larger in footprint than any other shed or outbuilding in the immediate area. However, as set out above, the building benefits from a Lawful Development Certificate and this is a matter to which I attach significant weight. Notwithstanding any misgivings regarding the size of the building I accept that the construction of it itself is lawful. The appearance of the building is therefore not a matter that I give any further consideration. From the information before me, however, I am not satisfied that the use of the building as living accommodation as part of an HMO was established by the LDC.
13. For such buildings to provide a separate unit of residential accommodation is at odds with the prevailing pattern of development in the surrounding area where primary residential occupation is typically provided within the main frontage buildings, whether as houses or sub-divided as flats, not within physically and functionally separate outbuildings. In this respect, the use of the outbuilding is at odds with the prevailing character of the appeal property and the surrounding area.
14. I acknowledge that an HMO licence has been granted by the Council for the use of the property as a 7-bed HMO and the property has been used as an HMO for several years. Nevertheless, the proposal before me is for a 7-person HMO of which 2 persons would be accommodated in the outbuilding. Although the building itself may be ancillary to the main dwelling, the use of it as living accommodation as part of an HMO is a primary use not an ancillary one. The effect on the character of the area is exacerbated by the way that the outbuilding can be independently accessed from the street. Furthermore, in my opinion, the use of communal facilities in the outbuilding by occupants of the main house does not make it ancillary and could not be ensured or reasonably controlled by condition or other means.
15. I consider that unrelated individuals would be unlikely in practice to function as a single household. Instead, each occupier of the HMO would be likely to have different schedules, make separate trips and receive individual visitors and deliveries. This would be likely to result in increased comings and goings at different times of the day in comparison to a single dwelling occupied by a similar number of people. In my judgement, the resulting level of activity would be of noticeably greater intensity than that associated with the existing and surrounding properties or the use of the main dwelling as a 5-person HMO and would lead to an uncharacteristic use of the property that would be

detrimental to the existing residential character of the road. Moreover, the outbuilding would essentially operate and be occupied as its own separate HMO.

16. There is a standalone building to the rear of 120 Burleigh Road. However, this is an exception rather than a commonplace form of development in the locality. Whilst small buildings and sheds within rear gardens may not be uncommon features in some suburban areas, the excessive size and use of the appeal building as primary living accommodation, in this instance, is out of keeping in character with its surroundings.
17. The appellant seeks to draw parallels with a planning permission for a similar development at 178 North Circular Road⁵ where the Council considered that an outbuilding could be used ancillary to the main use of the property in question as an HMO. I do not have the full details of the proposal before me, and therefore I cannot be certain that the situation on the ground is directly comparable with that of the appeal before me, where occupants of the outbuilding are able to come and go without entering the main house. Furthermore, from the officer report, the outbuilding at the property on North Circular Road only contained one bedroom. Therefore, the existence of this permission does not persuade me that the proposal before me is acceptable.
18. I therefore conclude that the use of the outbuilding as HMO accommodation would not be ancillary to the main house and is detrimental to the character of the surrounding area. The proposal, therefore, conflicts with the provisions of Policies D3, D5 and D6 of the London Plan 2021, Enfield Core Strategy 2010 (ECS) Policy CP30 and Enfield Development Management Document 2014 (EDMD) Policies DMD6, DMD8 and DMD37 which together seek to ensure that development is appropriate to its context. There would, however, be no conflict with the design aims contained within Section 12 of the Framework.

Living conditions – future occupiers

19. The sole window in the rear bedroom (labelled as Bedroom 6) of the outbuilding faces directly, at close quarters, towards the boundary with 108 Burleigh Road (No. 108). It was apparent from external inspection of the property that the outlook from this bedroom is directly onto a shared boundary wall. Due to the proximity of the shared boundary and the boundary wall the bedroom is likely to be poorly served by natural light which would create an unduly gloomy and oppressive form of accommodation for its occupiers.
20. The Council's officer report states that kitchen facilities for the occupants of the outbuilding would be provided in the main house. However, the plans before me show that a kitchen would be provided within the outbuilding. I therefore do not share the view that the layout of the outbuilding would be inappropriate in this respect.
21. Notwithstanding the provision of adequate kitchen facilities within the outbuilding, the proposal would not provide suitable living conditions for future occupiers with regard to outlook and light to the rear bedroom. There is, therefore, conflict with London Plan Policy D6 and EDMD Policy DMD10 which, amongst other things, seek to ensure that new development provides a good standard of accommodation for its occupiers which does not result in housing

⁵ London Borough of Enfield Ref: 22/02530/FUL

with inadequate daylight, sunlight or privacy. There would also be conflict with section 12 of the Framework which requires high standards of amenity for existing and future users.

Living Conditions – 108 and 114 Burleigh Road

22. Kitchen and bedroom windows are located in the front elevation either side of the centrally located front door of the outbuilding. Close boarded timber fences sit between the appeal property and both neighbouring properties at 108 and 114 Burleigh Road (Nos. 108 and 114) which affords a degree of screening between the ground floor windows of the properties. I have not been provided with details of the separation distances between the outbuilding and the rear elevations of Nos. 108 and 114. However, from my observations on site, the outbuilding is close to the rear windows of the neighbouring properties and would therefore result in a level of overlooking which would not be characteristic of properties in the locality. I have not, however, been provided with any substantive evidence that there would be any harmful loss of light or outlook for occupiers of Nos. 108 and 114 as a result of the proposal.
23. As the proposal would result in an unacceptable loss of privacy for the occupiers of Nos. 108 and 114, the proposal would conflict with London Plan Policies D3, D5 and D6, ECS Policies CP4 and CS30 and EDMD Policies DMD10 and DMD37. Collectively these policies require that development does not cause harm to the amenities of neighbouring occupiers or cause a loss of, amongst other things, privacy to neighbouring properties. There would also be conflict with section 12 of the Framework which requires high standards of amenity for existing and future users.

On-Street Parking

24. The appeal property is located within a Controlled Parking Zone (CPZ) and the majority of properties within the street rely on on-street car parking. On my site visit, undertaken in the morning of a typical weekday, when residents are more likely to be out at work or running errands, I observed that most on-street spaces were occupied. I therefore consider, that whilst this is not necessarily entirely indicative of the prevailing parking conditions there did appear to be some pressure on parking in the locality. No evidence has been submitted to demonstrate that there is sufficient capacity in the locality to accommodate further on-street parking. Neither is there any mechanism before me which would restrict the occupants access to car parking permits.
25. For a development of this size and nature the Council require the provision of 5.25 spaces. I recognise that a 4-bed 6-person dwelling may require only one space. However, it is more likely that the occupants of a single-family dwelling would come and go together, whereas occupants of an HMO would be more likely to lead separate lives and travel independently of one another.
26. I acknowledge that there is space within the appeal property to provide several car parking spaces and this could be conditioned as part of a planning permission. However, given the width of the undercroft opening, I am struggling to see how the number of spaces required could be practically provided and accessed independently, without conflicting with refuse storage and cycle storage provision whilst also providing adequate outdoor amenity space for occupants. Consequently, the lack of sufficient parking provision would likely result in indiscriminate parking within the locality, which would

give rise to unacceptable conflicts between vehicles, pedestrians and the free flow of traffic in the area.

27. I therefore conclude that the proposal would unacceptably harm highway safety contrary to London Plan Policies T2, T6 and T6.1 and EDMD Policy DM45 which seek to reduce the reliance on vehicles, whether stationary or moving and require developments to provide parking appropriate to its scale.
28. I note that parking provision for the 5-person HMO permission granted by the Council was a subject of a condition. I do not have the full details before me, nor can I be sure of the basis on which car parking provision was determined in this case. In any event, the proposal was for a 5-person HMO rather than the 7-person HMO proposal before me. I therefore attribute little weight to this matter.
29. I do not however find conflict with London Plan Policies T3, T4 and T7, ECS Policies CP24, CP25 and CP26 and EDMD Policies DMD46, DMD47 and DMD48. Although these policies concern transport matters, they are not relevant to the proposal before me and have not been determinative in reaching my conclusion on this main issue. I also find no conflict with the Council's Revised Technical Standards for Footway Crossovers 2013.

Refuse Storage and Cycle Parking

30. From the evidence before me and from my observations on site, I see no overriding reason why refuse storage and cycle parking provision for the proposal could not be accommodated in an appropriate location within the appeal site. I am satisfied therefore that such matters could be controlled by suitably worded conditions.
31. Consequently, adequate provision could be made for the storage of refuse and cycle parking. I therefore find no conflict with London Plan T2, T3, T4, T6, T6.1 and T7, ECS Policies CP22, CP24 and CP25 and EDMD policies DMD 45, DMD46, DMD47, DMD48 or the Enfield Waste and Recycling Storage Planning Guidance 2020 or Section 9 of the Framework.

Other Matters

32. Reference has been made to numerous other examples of outbuildings which were cited in a previous enforcement appeal⁶. The appeal was withdrawn, and I do not have the full details of that case to draw any comparisons from. I have, in any event, considered the appeal on the planning merits of the proposal and on the evidence before me. Nevertheless, the existence of other outbuildings elsewhere does not lead me to an alternative conclusion.
33. I acknowledge that the appeal property may provide adequate amenity space, the room sizes are spacious, it complies with HMO regulations, the appellant proposes a management plan, and is occupied by tenants who are currently employed by the National Health Service, Fire Service or in the education sector. I acknowledge that there may be a demand for this type of accommodation, and I do not doubt that HMOs offer a form of low-cost housing. However, I have not been provided with evidence that this cannot be provided elsewhere. These are not factors which weigh in favour of allowing the appeal and do not diminish the harm that I have found on the main issues.

⁶ APP/Q5300/C/17/3172663

Conclusion

34. Although I have concluded that the outbuilding is lawfully constructed, and as a result I have found no harm to the appearance of the appeal site and its surroundings and the provision of refuse storage and cycle parking are matters which could be controlled by condition, I have concluded that the use of the outbuilding as HMO accommodation would be detrimental to the character of the area and its occupation would not provide adequate living conditions for future occupiers. Furthermore, the occupation of the building is detrimental to the living conditions of neighbouring occupiers and would lead to increased demand for on-street parking.
35. Therefore, For the reasons given, I have found conflict with the development plan when read as a whole. No material considerations have been shown to be worthy of sufficient weight to warrant a decision otherwise than in accordance with it. Consequently, the appeal is dismissed.

KL Robbie

INSPECTOR