



Appeal Decision

Site visit made on 30 April 2024

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Appeal Ref: APP/G5750/C/23/3322472 26 Stopford Road, London E13 0LX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Talbir Bhatti against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 14 April 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use to a Sui Generis house in multiple occupation (HMO).
 - The requirements of the notice are to:
 - (i) Cease the use as a Sui Generis house in multiple occupation;
 - (ii) Remove all fixtures and fittings that solely facilitate the use as a house in multiple occupation, including (but not limited to) all internal locks on bedroom doors and any additional mattresses and beds.
 - (iii) Remove from the site all debris arising from compliance with steps 1 and 2.
 - The period for compliance is six months from the date this notice takes effect.
 - The appeal is proceeding on ground (a) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
-

Formal decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Preliminary Matters

2. The appellant has not produced any Statement in support of his appeal except for an indication that heat detectors, a fire detection system and a cable management system have been installed at the property. More specifically, it is mentioned that fire doors have been fitted along with a fire blanket in each bedroom. In addition, thumb-turn door locks have been fitted to each bedroom door and also the front entrance door.
3. At the time of my site visit no arrangements had been made for me to inspect the property internally. That is unfortunate but, as I will highlight, local planning policies show that there is an 'in principle' objection to the HMO use.
4. A House in Multiple Occupation (HMO) is a legal category of housing defined in part 7 of the Housing Act 2004, and is considered to be a residential property rented out by at least three people who are not from the same household, and is not entirely made up of self-contained flats. In other words the residents will share common facilities such as a kitchen, bathroom and wc, and preferably a communal lounge/dining area.

5. The appeal papers, including the appellant's responses to a planning contravention notice (PCN) served by the Council, indicate that the unauthorised HMO use commenced in September 2022, and this 3-storey former family dwelling accommodates nine persons. In this regard the appeal under ground (a) seeks to regularise the planning position.

The Appeal on ground (a) and the deemed planning application (DPA)

The Main Issues

6. These are:

- 1) the effect of the loss of a single-family dwellinghouse on the borough's housing stock;
- 2) whether the HMO allows for a satisfactory standard of accommodation for its residents; and
- 3) the effect of the HMO on the living conditions of neighbouring occupiers.

Loss of a single-family dwelling

7. In the absence of any representations from the appellant I have to take into account the Council's documents submitted to PINS in response to the appeal lodged whereby its decision to issue the enforcement notice is defended.
8. Policy H3 of the Newham Local Plan (NLP) says that HMOs (both 'large' and 'small'/Class C4) should be converted from premises other than family-sized dwellings. This approach is reinforced by NLP policy H4 which specifically indicates that the Council will protect 3-bed and 4-bed family dwellings and, to this end, will encourage the deconversion of flats and HMOs to their original layout. This intention is reflected in the wording of NLP policy S6.
9. The above policies were drawn up and predicated on a Strategic Housing Market Assessment (SHMA) undertaken by this Council in 2010. The research found that between 2001 and 2009, dwellings with 3 or more bedrooms had declined from 59.6% of the housing stock to 52.4%. In addition to the overall need for a net increase in the supply of housing of all types and tenures the SHMA established that if the proportional loss of family units continued at the same rate Newham borough will fail to provide enough family homes. The trend raised concerns around population transience with implications for convergence, community cohesion and integration brought about by population churn given the shortfall of housing suitable for expanding families who then consequently tend to leave the borough.
10. Given the Borough's existing and projected housing needs identified by the SHMA, the applicable NLP policies were therefore developed to resist the loss of all family housing, in particular through the subdivision of the existing traditional housing stock. In illustration, a strategic principle of NLP policy H1 is to secure the delivery of a mix and balance of housing types, including a significant increase to family housing to replace that lost to historic conversion. The change of use, the subject of this report, is contrary to the objectives of all the said policies.
11. The SHMA's findings, produced on an evidence base, suggests that the reduction in housing choice has challenged the wider aspiration of stabilising communities and requires rectifying. Apart from increasing the rate of

provision through new house building retaining the existing family dwelling stock is an essential element too.

12. I acknowledge that NLP policy H4 does recognise that there are circumstances where conversion can have multiple benefits or more desirable outcomes than retaining a family dwelling. However, no evidence has been put forward that No.26 is such a property, nor does the Council consider it to be in a location where conversion may be deemed acceptable.
13. Although no details have been provided by the appellant the Council does indicate that other considerations to be weighed up where conversions are proposed are factors such as the origin of the tenancy, whether the residents arrived as a single group or were independently recruited by the landlord, the extent to which the facilities are shared, whether the occupants are responsible for the whole house (including the common parts), or just their particular rooms, the general mode of living (to what extent communal and to what extent independent) the extent to which the residents can and do lock their doors, and the responsibility for filling vacancies ie whether that is a matter for the landlord or the existing occupants.
14. Again, in the absence of any such information I am unable to assess any details on such matters.
15. In conclusion, I find that the change of use of 26 Stopford Road into a HMO has had an adverse effect on the borough's housing stock of family homes. It also undermines the Council's strategy for building sustainable mixed communities and is in direct conflict with NLP policies S6, H1, N3 and H4. These are the policies which I find most relevant.

Standard of accommodation

16. NLP policies S6 and H1 aim to secure high quality living accommodation, as referred to in policy D4 of the London Plan (LP).
17. The Council say the premises consists of five bedrooms with cooking facilities on the ground floor and two bathrooms situated across ground and first floor levels. No details have been given as to any and, if so, the extent of any communal facilities necessary for the benefit of the occupants, within the property. In the above context any safety measures in place are of little consequence in terms of planning merit and do not support the appeal.
18. The National Planning Policy Framework (the Framework) expects planning decisions to ensure healthy living conditions, achieve good design and create better places to live, and this is reflected in policies within both the LP and the NLP, both of which set out clear design vision and expectations.
19. In the absence of any compelling information to the contrary I am not convinced that the conversion has provided a satisfactory standard of accommodation for the property's occupants. Accordingly, in this particular instance, the HMO use particularly flies in the face of NLP policies S6 and SP8 and LP policies D4 and D6.

Living conditions

20. As I am dismissing the appeal on the two substantive issues above, and as I have no direct evidence of any noise disturbance resulting from the HMO use it

is not necessary that I explore this particular issue further.

Other Considerations

Epping Forest Mitigation Zone

21. Policy guidance supporting the NLP indicates that the Council has a legal duty to ensure that planning decisions comply with the Habitats and Conservation of Species Regulations 2017 (as amended) to protect the integrity of the nearby Epping Forest Special Area of Conservation. In this respect, during 2018, Natural England raised concerns that recreational pressures on the Forest was resulting in identified adverse effects and that management and mitigation measures were required. From 2019, the Council had an interim approach in place where it worked with the relevant local authorities, City of London Corporation & Conservators of Epping Forest and Natural England to develop a final Strategic Access Management and Monitoring Mitigation Strategy and a new payment tariff.
22. The approach was subsequently finalised in 2022 and, in line with NLP's policies H1, SC5, INF2 and INF7, since February 2024, new residential developments, including both Class C4 and Sui Generis types, within the 0-6.2km recreational Zone of Influence are subject to HRA screening and appropriate assessment, plus with a tariff payment that must be submitted alongside the application via a completed Epping Forest SAMMS form. This requirement equally applies to the DPA as part of the current appeal.
23. As mentioned, the appellant has not submitted any substantive representations to support his appeal. Therefore, even were I to allow the appeal and find that planning permission should be granted, in the absence of any planning obligation put forward to make the relevant tariff payment there is no mechanism available to condition the permission.
24. Although I am dismissing the appeal on other substantive issues this is another consideration which significantly weighs against the DPA.

Overall Conclusion

25. I have identified that the use has caused particular harm on two of the three main issues. Further, the DPA makes no provision for mitigation relating to recreational pressures on the Epping Forest Mitigation Zone. This is a further policy requirement which has been ignored.
26. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the DPA.

Timothy C King

INSPECTOR