



Appeal Decision

Site visit made on 4 June 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/G5750/W/23/3334905

65 Louise Road, Stratford, Newham, London E15 4NN

- 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 Mr David Ong against the decision of the Council of the London Borough of Newham.
 - The application Ref is 23/01958/FUL.
 - The development proposed is described as the “change of use of dwelling C3 to use class C4.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published 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 consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party’s interests would be prejudiced by my taking this approach.
3. The appeal property is already in use as a House in Multiple Occupation (HMO). Therefore, the application is retrospective. For clarity, I have dealt with the appeal on the basis of the development applied for and the plans submitted with it.
4. Based on the evidence submitted, the appeal site is covered by an Article 4 Direction, which has the effect of requiring planning permission to be obtained for a change of use from Use Class C3 (dwellinghouses) to Use Class C4 (House in Multiple Occupation), which would otherwise be covered by “permitted development” within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Main Issues

5. The main issues are:
 - the effect of the development on the supply of family housing,
 - the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance, and

- whether the development encourages sustainable transport methods, having regard to cycle parking.

Reasons

Supply of family sized housing

6. Policy H4 of the Newham Local Plan 2018 (NLP) states that the Council will specifically protect 3 bed and 4+ bed family housing. NLP Policy H3 requires HMOs to be purpose built or converted from premises other than family-sized dwellings. NLP Policies S1 and H1 also place emphasis on the provision and protection of family housing within the Borough.
7. The appellant asserts that the appeal property was formerly a 2 bedroom property. Planning permission¹ has previously been granted for works to No 65 (the 2016 scheme). The floor plans approved as part of the 2016 scheme show a 2 bedroom property, with both bedrooms located on the first floor. The evidence submitted indicates that the 2016 scheme has been implemented.
8. The layout plan submitted in connection with this appeal has identical existing and proposed internal layouts, showing a 3 bedroom property, with 2 bedrooms on the first floor and a third bedroom in the roof space. No 65 benefits from a dormer roof extension, which the Council state has been in situ since early 2019. This is not disputed by the appellant. This dormer window, having regard to its location on the rear roof plane, corresponds with the location of bedroom three on the layout plan submitted with this appeal.
9. The planning application form states that the appeal development was completed on 1 January 2023. Therefore, it appears that the dormer roof extension and third bedroom were in situ prior to No 65 being in use as a HMO. Therefore, while there is evidence to suggest No 65 was historically a 2 bedroom property, the appeal building was, nevertheless, extended to a 3 bedroom property, prior to the change of use to a HMO being implemented.
10. Moreover, it is alleged that the appeal property, prior to the change of use to a HMO, did not meet the minimum internal space standards for a 3 bedroom, 6 person property. However, the development plan policies only rely on the number of bedrooms a property benefits from when assessing whether a property is a family sized home. They do not require an additional assessment in respect of the minimum internal space standards.
11. Taking these matters into account and based on the evidence before me, No 65 was a three bedroom, family sized home, prior to the change of use to a HMO being implemented. While the appellant asserts the principle of the change of use is acceptable, the development plan policies, nevertheless, seek to resist the loss of family sized housing. As such, the development for the change of use to a HMO has resulted in the loss of accommodation suitable for a family, for which there is an identified need.
12. For these reasons, the development results in an unacceptable reduction in the supply of family sized housing in the Borough, contrary to Policies GG4, H8 and H10 of the London Plan 2021 (LP) and NLP Policies S1, H1, H3 and H4. Collectively, these seek, among other things, to protect family-sized homes and create mixed and inclusive communities, with good quality homes that provide

¹ Planning application reference 16/03367/HH

for identified needs. It also conflicts with the Framework which requires development to take into account identified needs for different types of housing.

Living conditions

13. No 65 is an end of terraced property, located on a corner plot in a predominately residential area. While the GPDO does not require an assessment of living conditions for a change of use as sought by the appeal development, the provision of the Article 4 Direction removes these permitted development rights. As such, an assessment in respect of the effect of the appeal development on the living conditions of occupiers of neighbouring properties is required.
14. The maximum occupancy level sought by the appellant is 6 persons. An absence of complaints in respect of the HMO, does not mean that there has been no harm from the change of use. The occupants of the HMO are likely to be unrelated and living as separate households, with their own individual and separate routines and trips. They are also likely to attract their own visitors and deliveries, at different times of the day. Therefore, the development is likely to have created greater levels of comings and goings and differing patterns of behaviour than those associated with a single-family unit. Therefore, I am satisfied that there has been a materially harmful increase in noise and disturbance as a result of the appeal scheme.
15. While there may be scope for No 65 to be used by other groups within Use Class C3, no further details have been submitted and therefore a detailed comparison with the appeal scheme cannot be made. Additionally, there is little before me that the alternative use suggested is a greater than theoretical possibility or, that if the appeal is dismissed, the alternative would be pursued. As a consequence, I find the suggested fallback position to have limited weight in the determination of the appeal.
16. As a result, I am satisfied that the development has materially harmed the living conditions of neighbouring occupiers, with regard to noise and disturbance. This is contrary to NLP Policies H1, H4, SP1, SP2, SP3 and SP8 which seek, among other things, to secure high quality development, which achieve good neighbourliness by avoiding negative, and maximising positive, social, environmental, and design impacts for neighbours on and off the site. It is also contrary to the Framework which seeks, among other things, to ensure development proposals have a high standard of amenity for existing users.
17. The Council has referred to LP Policy D8 in their reason for refusal. This policy refers to the public realm. As this policy does not refer to living conditions of existing occupiers, with regard to noise and disturbance, it is not relevant to the main issue.

Sustainable transport methods

18. As required by LP Policy T5, the appeal scheme should provide 2 cycle parking spaces. While the submitted plans do not identify the location of these spaces, the appellant indicates there is side access to the rear garden, which allows independent access to the highway, without having to take cycles through the property. Both the appellant and Council confirm that cycle parking details could be secured by condition. Therefore, I am satisfied that if I were otherwise

minded to allow the appeal, an appropriately worded condition could secure the provision of suitable cycle storage.

19. In this regard, the development encourages sustainable transport methods, having regard to cycle parking, in accordance with the sustainable transport and cycle parking requirements of LP Policies T1, T2, T5 and T6 and NLP Policies INF2 and SP8. It also accords with the Framework in respect of promoting sustainable transport.

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, I conclude that while the development would encourage sustainable transport methods, the harm I have identified in respect of the supply of family sized housing and the living conditions of existing occupiers, with regard to noise and disturbance, is determinative. Therefore, the appeal scheme conflicts with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR