



Appeal Decision

Site visit made on 18 July 2024

by A Veevers BA(Hons) PGDipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/U5930/W/23/3326427

81 St Johns Road, Walthamstow E17 4JH

- 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 Simon McRoberts against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref is 223419.
 - The development proposed is change of use to 3 person HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the application form, omitting wording that is not an act of development.
3. The appeal property is already in use as a House in Multiple Occupation (HMO) and the application has been submitted retrospectively. I have determined the appeal on that basis.
4. It is incumbent on me to determine the proposal in accordance with current local development plan policy and guidance. The National Planning Policy Framework (the Framework) was updated in December 2023, after the Council made its decision. Insofar as is directly relevant to this appeal, there are no substantive changes. However, since the appeal was submitted, the Council adopted the Waltham Forest Local Plan Part 1, February 2024 (the WFLP1). The Council has confirmed that this supersedes the policies of the Development Management Policies Local Plan 2013 and the Core Strategy 2012 as relied upon by the Council in its decision notice. The Council has also confirmed that it maintains its objection to the proposal and now relies upon Policies 20, 57 and 60 of the WFLP1. The appellant has had an opportunity to comment on the relevance of these new policies. I have therefore determined the appeal on the basis of the WFLP1 which is afforded full weight.

Main Issues

5. The main issues are:
 - whether the development accords with local development plan policy in relation to HMOs; and,
 - whether there is appropriate provision for refuse/recycling storage and cycle parking.

Reasons

HMOs

6. The appeal relates to a detached two-storey property within a predominantly residential area.
7. Policy 20 of the WFLP1 sets out the Council's approach to the conversion of dwellings to, amongst other forms of occupation, HMOs. The justification text to this policy recognises that HMOs can form an important part of the housing stock, provided certain criteria are met. Nevertheless, the Council has an Article 4 Direction in place across the whole borough removing permitted development rights for a change of use from C3 (dwellinghouses) to C4 (HMOs). Evidence indicates that this was introduced to prevent the loss of family-sized homes through conversion to smaller units, in order to protect the stock of family-sized and larger homes.
8. Part A (i) of Policy 20 clearly states that the conversion of a larger home to an HMO will not be allowed where the house has a gross original internal floorspace of less than 124 square metres (sqm). From the information before me, including the planning application form and the table provided at page 12 of the appellant's appeal statement, the total gross internal floorspace of the property with the existing single storey rear extension, is less than 124 sqm. Therefore, even if there is not an over concentration of HMOs in the street or wider local area, as set out in criterion (ii) of Part A, the development conflicts with criterion (i).
9. Furthermore, even if the property met the overall floorspace requirement, Part C of Policy 20 imposes minimum space standards for room sizes. Bedroom no 3 would not meet the 10 sqm required for bedrooms in shared houses with a communal living room. Although the appellant suggests that the occupant of bedroom no 3 would have access to an adjacent storage room, there is nothing before me to ensure that this would be secured for the sole use of the occupant of that bedroom rather than for the general use of all residents of the property.
10. I appreciate that the appeal site is no longer located within a 'Restricted Dwelling Conversion, HMO and Building in Multiple Residential Occupation Ward' by virtue of the recent adoption of the WFLP1. I also recognise that the property remains in residential use and the London Plan 2021 supports an increase in housing delivery. Moreover, the other bedrooms and living areas in the appeal property have a generous amount of floor space. Many of the rooms are above the room size requirements set out in Policy 20, Part C. Nonetheless, the conversion of the dwelling into an HMO has resulted in the loss of a single-family dwellinghouse. There is nothing before me to indicate that the appeal property was/is not suitable for use by a single family.
11. To conclude on this main issue, the change of use to a HMO has resulted in the loss of a family sized dwelling from the housing supply which undermines the delivery of the Council's strategic aims to protect the stock of family housing. The development conflicts with Policy 20 of the WFLP1 which states that the conversion of a larger home to an HMO will not be allowed where the house has an original gross internal floor space of less than 124sqm.
12. Following the adoption of the WFLP1, the Council has also referred to conflict with Policy 57 in relation to this main issue. However, this policy, which is

concerned with the amenity of existing and future occupiers, neighbours and the surrounding area, is not directly relevant to this main issue.

Refuse/recycling storage and cycle parking

13. The submitted plans do not include details of refuse/recycling storage or cycle parking within the site. Cycle parking, waste generation and management for 3 occupants would not be significantly different to that of a family dwelling. I saw at my site visit, albeit a snapshot in time, that refuse/recycling receptacles were currently stored on the driveway to the side of the appeal property and a bicycle was stored within the rear garden. I also observed that most refuse/recycling receptacles in the surrounding area were primarily stored within the small front gardens of properties.
14. Given the appeal property fronts the road behind a low wall with vegetation above and includes a small front garden in addition to a side driveway and rear garden, I am satisfied that adequate refuse/recycling storage and cycle parking facilities can be accommodated in an appropriate location at the appeal site.
15. As such, I am satisfied that this could be secured by suitably worded planning conditions in the event that the appeal was allowed. Consequently, appropriate provision can be made for refuse/recycling storage and cycle parking at the appeal site. I therefore find no conflict with Policy 57 of the WFLP1 which seeks, amongst other things, that development provides sufficient facilities for the storage, collection and disposal of refuse to prevent negative impacts on visual amenity, access, health and security. I also find no conflict with Policies 20 and 61 of the WFLP1 which both seek, along with other matters, that development makes suitable provision for on-site cycle parking in order to support a shift to active transport modes and encourage an increase in cycling.

Other Matters

16. My attention has been drawn by the appellant to the London Borough of Waltham Forest – Standards for Houses in Multiple Occupation [HMOs], April 2015. However, this standard is not a statement of policy and does not change the wording or primacy of the development plan. Although standards are capable of being a material consideration in planning decisions, the document pre-dates the development plan and there is no evidence that it has been subject to any external consultation. Its commentary is therefore a matter of limited relevance in my consideration of the appeal and does not alter my findings in relation to the main issues.
17. The appellant indicates that the appeal property has a temporary HMO licence. However, the licencing regime is separate to the planning system and subject to different considerations. I have considered the appeal against relevant planning policies and guidance put to me, and the fact that the property may be licenced under another regulatory process does not alter my conclusions on the main issues.
18. I have noted the appellant's comments highlighting absence of identified harm in relation to the provision of car parking, urban design matters and the living conditions of occupants of the property and neighbouring residents, with particular regard to outdoor private amenity space, outlook, light, and privacy. Even if I were to agree that there are no unacceptable effects in terms of these

matters, they are general requirements for such development and are therefore neutral considerations.

Conclusion

19. Although I have found that there is adequate provision within the appeal site for the storage of refuse and cycle parking as a result of the development, I have found that the development has resulted in the loss of a family sized dwelling.
20. The proposed development therefore conflicts with the development plan when considered as a whole. There are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
21. Accordingly, the appeal is dismissed.

A Veevers

INSPECTOR