



Appeal Decision

Site visit made on 6 August 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/U5930/W/23/3333559

127 Ashville Road, Leytonstone E11 4DS

- 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 Mrs Nina Manku against the decision of Waltham Forest London Borough Council.
 - The application Ref is 230886.
 - The development proposed is described as "Retention of use of property as 3 to 6 persons House in Multiple Occupation-HMO (use class C4), with associated recycling and bicycle storage facilities to front garden".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following clarification that the name of the applicant on the planning application form was a typographical error, the appeal proceeds in the name of Nina Manku.
3. The Waltham Forest Local Plan Part 1 – Shaping the Borough 2020-2035 (the LP) was adopted by the Council on 29 February 2024. As such, the policies of the Waltham Forest Local Plan Core Strategy 2012 and the London Borough of Waltham Forest Local Plan Development Management Policies 2013 cited in the Council's decision notice have been replaced and have no weight. I have therefore determined the appeal against the relevant LP policies now in force.
4. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework). Other than a change to the relevant paragraph numbers, the revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal and I have had regard to the latest version in reaching my decision.

Main Issues

5. The main issues are:
 - Whether the development complies with the Council's development strategy relating to the provision of HMOs;
 - Whether the development would provide an acceptable standard of living for its occupants;
 - Whether the development complies with local policies relating to 'car-free' housing.

Reasons

Development strategy for provision of HMOs

6. The LP aims to maintain a mixed but balanced housing offer across the borough by seeking a range of home sizes and tenures. There is a clear policy requirement to protect the stock of family-sized homes and avoid proposals which contain only smaller homes. This is further supported by a borough-wide Article 4 Direction which removes the permitted development right given under the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of a dwellinghouse (Use Class C3) to an HMO (Use Class C4).
7. LP Policy 20 specifically concerns the conversion of larger homes to smaller homes, including HMOs. Part A of the policy seeks to resist the conversion of existing dwellings to HMOs where these have a gross original internal floor space of less than 124m²; or where it would result in an overconcentration of HMOs.
8. The appeal site is a two-storey mid-terraced dwelling with loft space accommodation, and is of a size and layout that would be capable of being used as a family dwelling. The planning application form states that the existing gross internal floorspace is 138m². However, it is apparent that the property has been previously extended at the rear in the form of a ground floor extension and dormer window. According to the Council, the gross original internal floor space was approximately 104m². This has not been disputed by the appellant. Therefore, even if there are no other HMOs in the area, the property does not meet the policy criteria for conversion based on its size.
9. I acknowledge the benefits of the proposal to housing supply generally and the flexibility that HMOs play in ensuring some form of housing can be made available to all, particularly single occupants. Nevertheless, the proposal does not comply with the floor space restriction in LP Policy 20 and is contrary to the development plan priorities to protect the existing family-sized housing stock.
10. I therefore conclude that the proposal would not comply with the Council's development strategy concerning the provision of HMOs. There is conflict with LP Policies 15 and 20 which seek to create mixed and balanced communities with a range of housing sizes and tenures, and resist the loss of family-sized homes with an original gross internal floor space of less than 124m².

Living conditions

11. Notwithstanding the application description, the application drawings show that the HMO would contain eight bedrooms over three floors, with a kitchen/dining room at ground floor level and three separate bathrooms at ground and first floor level. While the appellant states that two existing bedrooms would be converted to a large living/dining/kitchen area, this is not shown on the proposed plans and is not a matter which should be left to planning conditions. Moreover, the appeal process should not be used to evolve a scheme. If the appellant thinks that amendments would overcome the Council's concerns, then a fresh application should be made to the Council in the first instance. I have therefore based my assessment on the submitted plans.
12. Part C of LP Policy 20 and the associated Tables 8.5 and 8.6 establish minimum room sizes in a range of HMO scenarios. Notwithstanding my findings in

relation to the first main issue, the room sizes set out in this development plan policy provide a reasonable minimum expectation to be applied in the case before me.

13. For HMOs with a separate kitchen facility and no living room, the minimum size for a single occupancy bedroom is 11m². In this case, five of the bedrooms would fail to meet those minimum floor space requirements. The kitchen/diner would also fall well short of the required size for the potential number of occupiers and would have little space for multiple users at a time, particularly as its useable space would be further compromised by the doors opening into it. Without a separate communal space for the occupants and their visitors to socialise or relax, they would likely spend a greater amount of time in cramped bedrooms. The overall result would be cramped accommodation with a poor standard of living for its occupants.
14. I give very little weight to the appellant's claims that the current occupants have not complained about the size and standard of the accommodation. The space standards exist to ensure an appropriate standard of accommodation for all occupiers, regardless of whether some may be prepared to accept lower standards. In any event, the standards are expressed as minimum requirements and there is no compelling evidence before me as to why a lesser standard should be accepted in this particular case.
15. I therefore conclude that the development would result in less than adequate living conditions for the occupants. There is conflict with LP Policy 20 as the proposal does not meet the minimum space standards for room sizes in Tables 8.5 and 8.6, the intention of which is to ensure HMOs provide good quality living standards and adequate space for people to live in. There is also conflict with paragraph 135 f) of the Framework which expects a good standard of amenity for existing and future residents and users of buildings.

Car-free development

16. The appeal site has no off-street parking facilities and is located in a Controlled Parking Zone (CPZ). A CPZ is usually an area where there is more demand for parking than there are spaces on the street, and I have no substantive evidence to demonstrate this is not the case here. Increased demand for the on-street parking spaces would likely have an adverse effect on parking availability, congestion, and general local amenity in the area.
17. The appellant contends that the development would not have any greater parking/transport impacts than when the property was in use as a single family dwelling house on account that none of the current occupants own a car and the CPZ would prevent more than one parking permit being issued for the property in any event. However, I do not have appropriate assurances that this would be the case.
18. LP Policy 60 supports car-free development to reduce congestion and excessive parking on the street. LP Policy 66 expects all new residential developments (major and minor) to be car-free, which includes HMOs. It further states that a legal agreement will be required, restricting new residents from accessing parking permits within CPZs. Although the appellant has indicated they are agreeable to this, there is currently no legal agreement before me. I have considered whether the matter could be resolved by planning conditions. However, the requirements relating to the restriction of parking permits go

beyond matters which can be reasonably controlled by a planning condition. Furthermore, the Planning Practice Guidance on the use of planning conditions makes clear that a condition which requires the developer to enter into a planning obligation is unlikely to be appropriate.

19. Consequently, in the absence of a suitable mechanism to prevent the occupants of the development from obtaining parking permits, the proposal would not facilitate car-free development, and so, conflicts with LP Policies 60 and 66 in that regard.

Other Matters

20. The site is in a reasonably accessible location and would be capable of satisfying other development plan requirements for HMOs in relation to cycle parking and waste management. However, these are neutral matters in the overall assessment.

Conclusion

21. I have found conflict with relevant policies of the LP and consider that the appeal proposal through the identified conflict does not accord with the development plan as a whole. There are no material considerations which indicate that planning permission should be granted for the development which conflicts with the development plan. Therefore, the appeal should be dismissed.

A Caines

INSPECTOR