



Appeal Decision

Site visit made on 3 July 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal Ref: APP/G5750/W/23/3326010

94 Albert Square, Stratford, Newham, London E15 1HH

- 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 Rifat Mehmood against the decision of the Council of the London Borough of Newham.
 - The application Ref is 23/00067/FUL.
 - The development proposed is retrospective planning application for change of use to large HMO.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have had an opportunity to comment on the revised Framework through the appeal process. I have had regard to the revised Framework in my decision.

Main Issues

3. The main issues are:
 - Whether the change of use is acceptable, with particular regard to strategic housing policies and the effect on the supply of family sized dwellings; and
 - The effect of the appeal scheme on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Change of use

4. The appeal site comprises a 2-storey terraced house, with accommodation in the roof space. The surrounding area is predominantly residential in nature and is primarily comprised of similar terraced houses. The appeal seeks retrospective planning permission for the change of use of the property to a house in multiple occupation (HMO) with 6 bedrooms.
5. On 1 July 2013, an Article 4 Direction came into force in Newham. This direction removed permitted development rights for changes of use of the appeal property from C3 (dwellinghouses) to C4 (HMO) use. Planning permission is therefore required for a change of use from use class C3 to C4.

6. Policy H3 of the Newham Local Plan 2018 (the Local Plan) states that HMOs should be purpose-built or converted from premises other than family-sized dwellings. Policies S6 and H4 of the Local Plan also seek to restrict new conversions of family sized homes. The justification for Policy H4 indicates that Newham will fail to provide enough family housing if it does not both increase the rate of new provision and hold onto existing family stock. It contends that there is sufficient capacity for flats and HMOs through purpose-built new build, conversion of non-residential uses, and reuse of redundant premises above shops in town centres.
7. The evidence indicates that the appeal property was previously a family home. The plans show that, prior to its unauthorised change of use, the property comprised a 4-bedroom dwelling with one bedroom at ground floor, and 3 bedrooms at first floor. Retrospective planning permission was recently granted¹ for a roof extension to provide additional bedrooms at second floor.
8. Policy H4 of the Local Plan states that the Council will specifically protect 3 bed and 4+ bed family housing. Nevertheless, the conversion of large family dwelling houses may be appropriate in some exceptional circumstances, dependent on the location and the size and nature of resulting units and private amenity space. However, based on the evidence and my own observations, these exceptions do not apply in this case.
9. The appeal scheme contributes to the supply of HMOs locally. There is however no substantiated evidence to indicate that there is a shortfall in HMOs in the local housing mix or an overwhelming need for this type of accommodation in this area. Moreover, there is no compelling justification for the delivery of such accommodation to come at the expense of family housing, for which there is also an identified need. There is also no compelling evidence that a single family would sublet the property.
10. The change of use would thus not be acceptable, with particular regard to strategic housing policies and the effect on the supply of family sized dwellings. It would conflict with Policies H1, H3, H4, S1, S6, SP2 and SP3 of the Local Plan, and Policies GG4 and H10 of the London Plan March 2021 (the London Plan). These policies, among other provisions, seek to secure a mix and balance of housing types, including a significant increase in family housing, resist the loss of family-sized dwellings, restrict HMOs, stabilise the population, reinforce communities and provide a better housing mix.
11. It would also conflict with paragraph 8 of the Framework which, among other provisions, seeks to ensure a sufficient number and range of homes can be provided to meet the needs of present and future generations.
12. In respect of this main issue, I have not identified any direct conflict with Policy SP1 of the Local Plan, or Policy H8 of the London Plan. These policies, among other provisions, seek to ensure development is of high-quality and the loss of existing housing is replaced by new housing at equivalent or higher density and floorspace.

Living conditions

13. The appeal site sits within a relatively quiet residential area, comprised primarily of terraced properties in close arrangement. There is no information

¹ Council Ref 22/01902/FUL

before me regarding housing mix in the vicinity, though my observations on site indicate many neighbouring dwellings are single family homes.

14. While the appeal scheme is also a residential use, the nature of the occupation of the property by 6 unrelated individuals is appreciably different to that of a single family home, which would otherwise produce linked trips, with family members likely sharing activities, commutes, visitors and deliveries. Conversely, use of the property as a HMO will have increased the number of comings and goings, with each occupant having their own working and personal schedules. They will each attract their own visitors and deliveries, and are more likely to carry out individual activities while at home, in different parts of the property, and across a wider range of times.
15. Overall, this amounts to an intensification in the residential use of the site resulting in increased noise and disturbance for the occupiers of neighbouring properties. While I recognise the property has been in use as a HMO for some time, and there are no noise, anti-social behaviour or other complaints from neighbours during this period before me, this does not in itself demonstrate that the appeal scheme is acceptable in this regard.
16. While the property may be managed by a dedicated residential house manager, there is no further details of management arrangements before me. It is also unclear how the management of the property would reasonably be able to negate the issues identified above in respect of the nature of its use.
17. The appeal scheme would have a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. It is contrary to Policies S6, SP2, SP8, H1 and H3 of the Local Plan, and Policies GG4, D3 and D14 of the London Plan. These policies, among other provisions, seek to improve housing quality and ensure quality neighbourhoods are created, attend to environmental impacts including noise and ensure all development achieves good neighbourliness and accommodation is appropriately located.
18. It would also conflict with paragraph 135 of the Framework which, among other provisions, seeks to create places with a high standard of amenity for existing and future users.
19. In respect of this main issue, I have not identified any direct conflict with Policies GG1, GG3 or D8 of the London Plan. These policies, among other provisions, seek to ensure communities are inclusive and development proposals have regard to health implications and the effect on the public realm.

Other Matters

20. The appeal site lies within the Zone of Influence of the Epping Forest Special Area of Conservation (SAC) which is afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended ('the Habitats Regulations'). However, Regulation 63(1) of the Habitat Regulations indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As I am dismissing the appeal for the reasons detailed above, I do not need to consider this matter further as it could not lead me to a different conclusion.

21. I recognise that the appellant has received a HMO licence from the Council, and the use of the property in this manner is in compliance with licensing requirements. This is however separate to the planning process and does not in itself demonstrate that the appeal proposal is acceptable in planning terms.

Conclusion

22. The proposed development conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR