



Appeal Decision

Site visit made on 1 October 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2024

Appeal Ref: APP/Q5300/W/24/3346069

32A South Street, Enfield EN3 4JZ

- 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 London Stay Apartments against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 23/04061/FUL.
 - The development proposed is described as, use of part of ground floor, upper floors and outbuilding to HMO (sui-generis) and erection of rear dormer and rooflights along with associated landscaping, amenity space, parking and refuse provision.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. While the red line of the appeal site encompasses all of 32 and 32A South Street, the application form and appellant's submissions set out that the proposal relates to only part of the ground floor, in addition to the upper floors and outbuilding at the rear, referred to as 32A South Street (32A). The front part of the ground floor area of the appeal building, which is described as a self-contained flat on the existing and proposed plans, does not form part of the appeal proposal.
3. The evidence provided shows that the ground floor part of the appeal building, referred to as 32 South Street (No 32), was subject to a separate application, ref 23/03845/CEU and a subsequent pending appeal, ref APP/Q5300/X/24/3346065, regarding an application for a certificate of lawfulness.
4. I observed at my site visit that the front ground floor part of the appeal building is being used as living accommodation and that it shares the same main entrance from South Street as the HMO units, which are the subject of this appeal. Also, no substantive evidence has been provided by the main parties to show the extent of the previous shop use of No 32. However, notwithstanding such, the lawfulness or otherwise of the front ground floor self-contained flat is not a matter for consideration as part of this appeal.
5. In view of the above, the change of use of No 32 from a Class E unit to a self-contained flat is outside the scope of the appeal scheme. Consequently, reasons for refusal 01 and 02 on the Council's decision notice are not within the scope of the appeal before me, nor is the effect of the appeal scheme on the living conditions of the occupants of this self-contained flat.

6. At the time of my site visit, I observed that the proposed rear dormer and rooflights in the front roof slope were in situ and that, the HMO units were occupied. Therefore, the appeal scheme is being sought retrospectively and so, I have determined the appeal on this basis.

Main Issues

7. Having regard to the above, the main reasons in this appeal are:
- whether the HMO is in an appropriate location, having regard to development plan policy, in particular, Policy DMD5 of the Enfield Development Management Document (DMD);
 - whether the HMO provides acceptable living conditions for its occupants, in particular regard to outlook and provision of appropriate daylight for bedrooms 1 and 2 and, the provision of adequate garden amenity space for the development scheme;
 - the effect of the rear dormer on the character and appearance of the host building and surrounding area, in particular regard to its size, design and location; and,
 - whether the development scheme promotes sustainable modes of transport, particularly in regard to the provision of adequate on-site cycle parking facilities.

Reasons

Location

8. Policy DMD5 of the DMD sets out that development involving the conversion of existing units into self-contained flats and houses of multiple occupation (HMO) will only be permitted where certain criteria is met. It is undisputed by the main parties that the 5 new HMOs meet the internal floor space standards set out in the London Plan. Also, no concerns have been raised by the Council that the development would give rise to unacceptable noise and disturbance for occupiers of adjoining properties, nor that the proposal would fail to provide compensatory provision for family accommodation in accordance with part 2a of Policy DMD5.
9. The Council asserts that the proposal would result in the excessive number or clustering of conversions. However, the evidence provided does not demonstrate unequivocally that there is a consecutive row of 5 units converted to self-contained flats and/or HMOs. The Council sets out that within the row of 5 consecutive properties, where the appeal site is located, planning permission was granted for the change of use of the rear ground floor of 28 South Street (No 28) to a self-contained flat, ref 14/02659/FUL. Whereas, from the evidence provided and my site observations, the frontage of No 28 appears to be a non-residential, commercial premise and so, the whole property has not been converted.
10. Therefore, even if part of the ground floor of No 28 is a single self-contained flat, it has not been demonstrated that the whole property at No 28 is a self-contained flat or HMO, nor that the appeal scheme would harmfully affect the residential character of the area, resulting in an excessive clustering of conversions in this instance.
11. In respect of other criteria set out in Policy DMD5, the Council assert that the site has a PTAL of 3 and that, it is appropriate for the type of use and location,

that the development is car free. Also, no concerns have been raised by the Council with regard to refuse storage arrangements for the development scheme.

12. In view of the above, I find the HMO is in an appropriate location, as it meets the criteria set out in Policy DMD5 of the DMD. For the same reasons, in respect of this main issue, there would be no conflict with Core Policy 30 (CP30) of the Enfield Plan Core Strategy (ECS) and Policy DMD 37 of the DMD, which require, amongst other matters, that development is of high quality which has regard to or is appropriate to its context.

Living conditions of occupants

13. Bedrooms 1 and 2 are at ground floor and have solid structures directly in front of and close to the main windows serving these rooms. The window of bedroom 1 faces the tall side boundary wall with only a narrow walkway between. Directly opposite the rear facing windows of bedroom 2 there is an outbuilding some 5 metres away. Also, the windows of these two bedrooms have privacy window screens fitted, which reduce the amount of light and outlook for the occupants.
14. Notwithstanding that the appeal scheme has been granted a HMO licence by the Council's housing department, this does not demonstrate that bedrooms 1 and 2 would have adequate outlook and daylight. Even though the windows serving these bedrooms are fairly large, from my site observations inside the bedrooms, the privacy screens together with the close proximity of solid structures in front of the windows, limits the amount of outlook from and daylight received into these rooms. This provides a fairly dark and oppressive feel inside the bedrooms. While bedroom 2 also has a glazed door to the side, this is situated directly opposite and close to the high side boundary wall of the appeal site. Therefore, this does not significantly enhance the outlook from and daylight received by bedroom 2.
15. It is acknowledged that the appellants have reviewed the Council's HMO standards (March 2021), which sets out the framework and guidelines for living space, amenities, and good management of HMO developments. Also, it is undisputed by the main parties that bedrooms 1 and 2 would have sufficient internal floorspace, in order to meet the minimum HMO floorspace standard requirements, as set out in Policy D6 of the London Plan (LP). However, without evidence to the contrary and from my site observations, bedrooms 1 and 2 do not have acceptable outlook and daylight provision.
16. There is a small area of shared external amenity garden space at the rear of the appeal site, located between bedroom 2 and the outbuilding. This is an area of hardstanding, which also provides access to the shared TV room within the outbuilding and contains the shared cycle parking facilities for the HMO. Therefore, the cycle parking facility together with the need to maintain access to the TV room limits the useable area of this amenity space.
17. While there is a public park nearby at Ponders End Park which offers various facilities and is accessible via only a short walk from the appeal site, Policy DMD9 of the DMD sets out that new development must provide good quality private amenity space which meets or exceeds the standards set out therein. Policy DMD9 standards only go up to a 4-bed, 6-person dwelling types. This requires for such sized dwellings an average of 50sqm across the whole site

for dwellings without access to communal amenity space, or a minimum of 9sqm of private amenity space per individual dwelling, where the dwelling has access to communal amenity space. With either scenario applied, the amenity space provided within the appeal site does not achieve the required standards and so, the appeal scheme does not provide adequate, good quality private amenity space for its occupants.

18. In view of the above, the HMO does not provide acceptable living conditions for its occupants, in particular regard to outlook and provision of appropriate daylight for bedrooms 1 and 2, and the provision of adequate garden amenity space for the development scheme. For such reasons, the development scheme would not provide a high quality form of development, in conflict with Policies DMD5a, DMD8 and DMD9 of the DMD. Policy DMD8, amongst other things, requires that new residential development preserves amenity in terms of daylight and outlook and that, high quality amenity space is provided as part of the development in line with Policy DMD9.
19. The scheme also conflicts with part D of Policy D6 of the LP, which requires development to provide sufficient daylight and sunlight. Additionally, while there is no direct conflict with the provisions of Policy D4 of the LP and Policy CP30 of the ECS in respect of this main issue, both policies require the delivery of good design.

Character and appearance

20. The dormer roof extension is not visible in the street scene along South Street and does not break the skyline, as it is not above the main ridgeline of the host property. However, at the rear, it is visually prominent from public vantage points in Ponders End Park due to its size, design, and position on the host property.
21. Even though there are other examples of large, rear flat roof dormers in the local area, as highlighted by the appellant, on the opposite side of the road, including at 37, 39 and 49 South Street. There are no other large flat roof dormers along the row of properties where the appeal site is situated, which are as visually prominent from public vantage points from Ponders End Park, comparable to the appeal dormer. There are further examples of large flat roof rear dormers in nearby roads, as shown on the aerial photographs provided by the appellant, including along Allens Road are noted. However, I do not have substantive information to allow full comparison of such examples with the appeal dormer, yet these examples are in a different location and do not have the same site context with views of them from a public park, as per the appeal dormer. Therefore, I have considered the appeal dormer based on its individual merits.
22. I appreciate that the appellant sought advice from the Council's Building Control Inspectors, who raised no objection to the design and position of the dormer from their perspective. Also, as asserted by the appellant, there are examples of loft development in the local area which are built up to the boundaries. However, the technical building control requirements are different from planning policy requirements.
23. Policy DMD13 of the DMD sets out that roof extensions should be inset from the eaves, ridge, and edges of the roof (insets should normally be between 500-700mm) and that, they should be in keeping with the character of the

property, and not dominant when viewed from the surrounding area. The dormer does not achieve such set-in distances and so, fails to meet the policy requirements. As a result, the large dormer appears top heavy on the roof of the building, out of keeping with the character and appearance of the host property. For such reasons and its prominent position, visible in the public domain from the park at the rear, the dormer is inappropriate in its context and fails to have appropriate regard to its surroundings and so, fails to meet all the criteria of Policy DMD37 of the DMD.

24. Despite the external facing materials of the dormer being coloured to match neighbouring properties and the window design and construction are in keeping, and as asserted by the appellant, meet building regulations, the size, bulk, and position of the dormer, means that it appears as a discordant feature in the row of properties and is publicly, visually prominent from the park at the rear. Also, as the appeal property is a HMO rather than a class C3 residential use, there is not a viable fallback position with regard to the rear dormer under permitted development rights.
25. In view of the above, the rear dormer has a harmful effect on the character and appearance of the host building and surrounding area, in particular regard to its size, design and location, in conflict with Policy D4 of the LP, Policy CP30 of the ECS and Policies DMD13 and DMD37 of the DMD, which generally require development to be of good design or high-quality. Also, Policy DMD13 part 1b in particular requires roof extensions to be in keeping with the character of the property and not dominant when viewed from the surrounding area.

Cycle parking facilities

26. The development scheme includes provision of open, uncovered bike racks in the external amenity space at the rear of the appeal property. The access to this cycle parking is through the HMO, from the main entrance off South Street. Therefore, occupants would need to wheel bikes through the ground floor of the building and then down the uncovered side passageway adjacent to bedrooms 1 and 2 to access this.
27. Policy DMD45 of the DMD requires new development to make provision for cyclists, including provide secure parking in safe, convenient, and accessible locations with good natural surveillance. Also, Policy T5 of the LP requires development proposals to secure the provision of appropriate levels of cycle parking, which should be fit for purpose, secure and well-located.
28. While the development's cycle parking would not be overly convenient and accessible, due to the need to wheel bicycles through the premises to access it. It provides sufficient parking to meet the standards of 10 spaces for the HMO, as set out in table 10.2 of Policy T5 of the LP. Also, the cycle parking is in a secure location, where the occupiers of bedroom 2 and those using the TV room can overlook it. Therefore, despite that the cycle provision is not ideal in terms of its accessibility to all occupants of the HMO, there is acceptable provision, which would help to promote sustainable modes of transport in line with the relevant development plan policy. Also, I acknowledge that the appeal site is within a PTAL 3 location, where there is a moderate level of accessibility for public transport.

29. In view of the above, the development scheme promotes sustainable modes of transport, by making acceptable provision of adequate on-site cycle parking facilities. Therefore, in regard to this main issue, I find no conflict with Policy T5 of the LP and Policy DMD45 of the DMD. Also, there is no conflict with Policy CP24 of the ECS, which, amongst other matters, sets out that the Council encourages sustainable travel choices, nor is there conflict with Policy DMD47 of the DMD, which requires, amongst other things, that development to be designed to ensure cycling is a realistic alternative travel choice to that of the private car.
30. While referred to in the Council's reasons for refusal, Policy CP25 of the ECS is not directly of relevance to the appeal scheme, as it relates to provision of routes for cyclists rather than parking for bicycles.

Other Matters

31. That the internal floorspace of the HMO bedrooms meet the relevant standards and that no harmful effect is caused to the amenity of neighbouring occupiers by the appeal scheme, are considerations which do not directly relate to the main issues of concern in this appeal. Therefore, they are neutral matters which do not weigh in favour of the development scheme.
32. The increased occupation of the appeal building would promote efficient use of the site, but this needs to be balanced against the provision of suitable and appropriate living accommodation, which I have found harm in relation to outlook, daylight and private amenity space. The HMO accommodation would provide some benefits to those who can only afford and/or want to live in small communal living accommodation and so, increase this type of housing provision in the area. Also, the appeal scheme has some economic and social benefits, by providing additional living accommodation in a sustainable location, and that its occupants will support local facilities and services. However, such benefits would not be significant enough to alter or outweigh my conclusions on the harm I have found in relation to the main issues.

Conclusion

33. Despite that I have not found harm with regard to the location of the appeal scheme and promotion of sustainable transport, the harm I have found in relation to the other main issues is sufficient to justify dismissing the appeal, as the proposal conflicts with the development plan in regard to such matters and material considerations do not indicate that the appeal should be decided other than in accordance with it.
34. Accordingly, I conclude the appeal should be dismissed.

C Billings

INSPECTOR