



Appeal Decision

Site visit made on 4 December 2024

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/Z5060/W/24/3341905

1 Church Road, Barking, IG11 8PR

- 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 HB Realty against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref is 23/00736/FULL.
 - The development proposed is Change of use of 10 x bedrooms in total at ground, first, and second floors at Numbers 56-60 Tanner Street, from the established House in Multiple Occupation (HMO) use (Sui Generis) to a hotel use (Use Class C1); Reduction in size and partial change of use of established multi-purpose community facility at ground floor of the former public house 'The Britannia' at 1a Church Road, to 7x bedrooms with ensuite bathrooms to be used as House in Multiple Occupation (HMO) in association with the approved HMO use; and the provision of an enclosed external cycle parking storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision, the London Borough of Barking and Dagenham Local Plan 2020-2037 (19 September 2024) (LP) has been adopted, superseding the Local Development Framework Core Strategy (2010) and Borough Wide Development Plan Document (2011). On 12 December 2024, a revised National Planning Policy Framework (the Framework) and updated Housing Delivery Test results were published. The parties have been given the opportunity to comment on each of these matters.
3. The appellant refers to the description of development being changed during the application process and has requested that this appeal be determined as originally submitted. The amended description was agreed by the parties and it was on that basis the Council determined the proposal. The 'Procedural Guide: Planning appeals – England' is clear that 'it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Local Planning Authority and by interested parties at the application stage'. It therefore would not be appropriate to revert to an earlier description in my consideration of this appeal. I have therefore used the description of development from the appellant's statement of case, which is consistent with the decision notice.

Main Issues

4. The main issues in this appeal are whether the proposal would:
 - have an acceptable effect on the availability of community facilities;

- provide acceptable living conditions for future occupiers of the house in multiple occupation (HMO);
- provide an appropriate standard of accommodation for occupiers of the hotel
- make appropriate provision for the disposal of waste; and
- make appropriate provision for fire safety.

Reasons

Community Facilities

5. LP Policy DMS 1 requires proposals involving the net loss of existing social and community facilities to continue to provide for and enhance the needs of existing local users. The appeal site at present includes a function room with a floor space of 238sq m. The proposal would retain 79.1sq m. This is considerably less than that currently available and as such would result in a net loss of an existing community facility. To allow the proposal, it therefore would need to meet the requirements of the policy.
6. The appellant has confirmed that the function room is used, and would continue to be used, to provide meals for occupiers of the HMO. The reduced space would be available for community use outside of these times. However, the appellant's written evidence suggests it may be used for serving full board meals which would extend beyond use only earlier in the day. It is also not clear what times are allowed for meals for occupiers of the existing property. There would therefore be limitations on the availability of the room for community use.
7. The appellant has put forward a number of reasons why the existing provision is unattractive to prospective users. The evidence before me sets out why the appellant considers the reduced space would continue to meet the needs of residents, particularly given the availability of other facilities in the area and the enquiries that the appellant receives for the use of the space. However, there is no substantive evidence of this before me, such as records of enquiries received with respect to the use of the room, reasons why the space is not suitable for the needs of users or the wider provision of facilities in the area. In the absence of such information, I cannot conclude that the proposal would continue to provide for or enhance the needs of existing local users.
8. I therefore conclude that the proposal would result in the reduced availability of community facilities. It would therefore be contrary to LP Policies SP 4 and DMS 1 which seek to protect social and cultural infrastructure unless it can be demonstrated that the needs of existing local users continue to be met or enhanced.
9. The Council's decision notice refers to London Plan (March 2021) Policy S1. However, there is no evidence before me that the site lies within an area of defined need as identified in the borough's social infrastructure needs assessment. I therefore cannot be certain that this policy would be applicable to this decision.

Living Conditions

10. London Plan Policy D6 requires housing development to be of a high quality design. It also acknowledges that qualitative aspects are key to ensuring successful, sustainable housing. The supporting table confirms that development should be oriented to optimise opportunities for visual interest through a range of immediate and longer-range views.
11. There would be a very restricted outlook from one of the proposed bedrooms due to its close proximity to another elevation of the building. The outlook would only be to an unrelieved blank elevation. This is a three storey elevation, which consequently would limit levels of sunlight and daylight to that room. This would not provide satisfactory living conditions for future occupiers. The outlook from the adjacent room would also be somewhat limited, however there would be sufficient distance from the elevations of the adjacent building to provide an acceptable level of outlook, sunlight and daylight.
12. The evidence before me is not clear as to the provision of shared facilities within the existing premises and whether proposed occupiers would have access to these. The communal dining room and kitchen in the existing community facility are referred to, however it is not clear how occupiers would be able to access these when they were in use as a community facility.
13. The proposal would therefore not provide acceptable living conditions for future occupiers of the house in multiple occupation. The proposal would therefore be contrary to London Plan Policy D6 which requires housing development to provide functional layouts which are fit for purpose and provide key qualitative aspects including sufficient daylight.
14. The Council's reason for refusal refers to conflict with London Plan Policy H16 and the failure to provide a management plan. This policy applies to large scale purpose built housing. This proposal is for a conversion, so this policy is not of direct relevance to the proposal.
15. The Council's reason for refusal also refers to conflict with the Council's HMO Standards document. It states that it forms the basis of conditions attached to a licence for a HMO. This is not administered through the planning system and there is no evidence before me that this document forms part of the development plan or any form of planning guidance. The reason for refusal also refers to conflict with the Housing Act 2004. However I have not been directed to any section which would be relevant to this appeal. Accordingly, these matters have not been taken into account in this decision.

Hotel Accommodation

16. The officer report refers to the proposed change of use of ten bedrooms within the building to hotel use as being to avoid restrictions placed on the operation of HMOs with regard to the number of people who can occupy rooms. I have not been provided with copies of any correspondence or directed to anything in the appellant's case which sets out how it is intended to operate the hotel. In any event, I must determine the appeal on the basis of what is proposed.
17. I have been directed to policies in both the London Plan and LP that deal with tourism development and infrastructure. None of these policies directly refer to the quality of accommodation to be provided. The Council's appeal statement

refers to concerns as to how the hotel and HMO uses would operate together, however this would be an issue for any operator of the site to address.

18. I have no reason to conclude that the standard of accommodation for occupiers of the hotel would not be appropriate. In this respect, the proposal would not conflict with LP Policy DME 4 or London Plan Policy E10.

Waste

19. The Council has produced a Planning Advice Note on Waste and Recycling Provisions in New and Refurbished Residential Developments, setting out clear expectations for refuse storage which supports recycling. The appeal site includes a large car park and other area of hardstanding. This would provide ample opportunity for the provision of waste facilities. I have no reason to think an appropriate scheme could not be achieved. A suitably worded condition would be an appropriate mechanism to secure this.
20. I therefore conclude that appropriate provision for the disposal of waste could be made within the site. The proposal would therefore not be in conflict with LP Policies SP7 and DMSI 8 which seek to meet the municipal waste recycling target and require development to provide appropriate facilities for waste and recycling.

Fire Safety

21. The evidence before me indicates the site is in mixed use as a HMO and a community facility. The Council's HMO Standards document confirms that adequate fire precautions must be in place as part of the licencing and statutory regime associated with HMOs. The seven bedrooms proposed to be in HMO use would be on the ground floor. I therefore have no reason to think this is a matter which would not be adequately addressed through other legislation.
22. The rooms proposed to change from HMO accommodation to hotel accommodation would be located on the same floors as other rooms in HMO use. I have no reason to think adequate fire escape measures have not been taken with respect to these rooms at present. There is also other health and safety legislation which exists with respect to facilities such as hotels. This also ensures that fire safety would effectively regulated by other regimes.
23. The Council refers to London Plan policies which require large scale HMO applications to be accompanied by a management plan, but I have not been directed to any specific policy which requires this. The Planning Practice Guidance in the section on fire safety and high-rise residential buildings applies to buildings with 7 or more stories or that exceed 18m in height. Neither of these apply to this building.
24. I therefore conclude the proposal would make appropriate provision for fire safety. It would therefore be in accordance with London Plan Policy D11 which requires development proposals to minimise potential physical risks from fire.

Other Matters

25. The site is well located within the urban area for access to services and facilities. It also has ready access to the public transport network. However the weight that I give to such matters would be limited taking account that the

overall number of rooms for residential purposes would be reduced. Against this would be the substantial harm that would be caused to the supply of community facilities and to the living conditions of the occupier of one of the proposed rooms.

Conclusion

26. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate the decision should be made otherwise. For the reasons given, I conclude that the appeal should be dismissed.

Jennifer Wallace

INSPECTOR