



Appeal Decision

Site visit made on 8 April 2025

by **L Clark BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 May 2025

Appeal Ref: APP/G5750/W/24/3353447

16 Nigel Road, Forest Gate, Newham, London E7 8AN

- 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 Sharmina Kazi against the decision of the Council of the London Borough of Newham.
- The application Ref is 24/00287/COU.
- The development proposed is change of use request from C3 to C4.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024, with further minor updates in February 2025. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.
3. The appellant contends that the smaller bedroom on the first floor falls below the minimum thresholds to constitute a bedroom and therefore the appeal property (No 16) is a 2 bedroom dwelling. I note the officer's report states that No 16 has 5 bedrooms, however, the appellant's existing plan, submitted in support of the appeal ref 24.16NR.P01, shows only three. Even if the smaller of the 3 bedrooms does not meet modern standards, plans show that it has a window with an outlook over the rear amenity area. In my view, policy compliance relates to proposed development and based on the evidence, No 16 would have likely been built as a 3 bedroom house with this room functioning as a habitable room. Given my findings above, I have assessed the appeal on the basis that No 16 has 3 bedrooms and is a family dwelling.
4. The appellant has requested that I consider changes which were not before the Council when it took its decision. These changes relate to refusal reason 2 and seek to demonstrate adequate storage for 2 bicycles within the front amenity area. I have considered the proposed changes, taking into consideration the tests on Holborn Studios Ltd¹. Even though the Council are silent on the matter, the plan only seeks to clarify concerns raised by the Council and to support the appellant's proposal. I am therefore satisfied there would be no procedural unfairness to anyone involved in the appeal, including those consulted on the original application. I have therefore determined the appeal on the basis of plan HP-NR-01.
5. An Article 4 Direction has been made by the Council, which came into effect in July 2013 and removes permitted development rights for change of use from Class C3 to Class C4. This, therefore, forms part of my assessment of this appeal.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Main Issues

6. The main issues are:

- the suitability of the proposed development, having regard to the development plans approach to the provision of HMOs, with particular regard to identified housing need; and,
- whether the proposed development would make adequate provision for sustainable travel.

Reasons

Housing need

7. In managing the delivery of a mix of housing, Policy H3 of the Newham Local Plan 2018 – A 15 year plan looking ahead to 2033 (Local Plan) requires, amongst other matters, small HMOs to be purpose-built or converted from premises other than family-sized dwellings, subject to Policies H1, H3 and H4. Policy H4 of the Local Plan seeks to protect and re-shape the existing housing stock, specifically protecting 3 and 4+ bed family housing. In adopting this approach, the Council recognises that the greatest housing need within the Borough is for family-sized dwellings. These policies accord with the Framework, which indicates that planning policies should reflect the housing needs of different groups, including, amongst other things, families with children.
8. Notwithstanding the above, Policy H4 also lists criteria where the conversion of 3+ bed housing may be appropriate. However, all the exemption criteria must be satisfied, and the proposed development must also be subject to the satisfaction of other policies.
9. The appellant contends that the development is within the Town and Local Centre of Forest Gate, however, this contradicts the officer's report. Even if No 16 is close to Romford Road/A118, which is identified as a Key Movement Corridor and Linear Gateway, I have not been provided with its specific distance to this as set out by Policy H4. I note that there would be no external alterations being proposed, and submitted plans show that future occupants would have access to external private amenity space and that the entrance is clearly defined. Despite these, the proposed conversion would not meet the remaining criteria of Policy H4. This is because it is not located above an existing occupied commercial unit.
10. It is put before me that the proposed development would respond to current economic conditions within the housing market, which would provide good quality affordable housing. While I acknowledge that HMO accommodation can provide affordable accommodation for tenants whose alternative housing choices may be limited. No substantive evidence has been put before me to demonstrate that either No 16 is unaffordable for a single family or that there is a lack of demand for family accommodation within the Borough.
11. For the above reasons, I conclude that the proposal would have a harmful effect on the Borough's supply of family-sized housing. The proposal would be contrary to Policies GG4, H8 and H10 of the London Plan 2021, and Policies S1, SP1, SP2, SP3, H1, H3 and H4 of the Local Plan, which collectively seek to prevent the loss of existing larger housing, suitable for family occupation. There would also be conflict with the requirements of the Framework, which seeks to ensure that the size, type and tenure

of housing needed for different groups in the community are assessed and reflected in planning policies.

Sustainable travel

12. Local Plan Policy SP8, Criterion 2. (a. x) seeks all development to achieve a high standard of access, egress and circulation for all, including, amongst other matters, the provision for bicycle storage facilities. This is supported by its strategic policy INF2 which relates to sustainable transport and seeks, amongst other matters, to maximise the efficiency and accessibility of the Borough's transport network by cycle. Policy T5 of the London Plan relates to cycling and sets out minimum standards for developments.
13. The Council contends that 2 secured cycle parking spaces would be required. I saw that several properties on Nigel Road had bicycles stored within the front amenity area. I note that plan ref HP-NR-01, submitted alongside the appeal, demonstrates that the front area would be large enough to accommodate the storage of 2 bicycles and 2 bins and retain a clear pathway to the front entrance.
14. From the evidence before me and observations on site, I am satisfied that the front area amenity could accommodate two cycle parking spaces. This matter could be addressed by a suitably worded condition if I were minded to allow the appeal. Subject to the imposition of such a condition, I am satisfied that the proposed development could provide sufficient cycle parking, which promotes sustainable modes of transport for the occupants.
15. For the above reasons, I conclude that there would be no conflict with Policy T5 of the London Plan and Policies SP8 and INF2 of the Local Plan, which collectively seek to ensure that developments provide adequate bicycle storage facilities. There would also be no conflict with the Framework, which advises that development should provide secure cycle parking.

Other Matters

16. Based on the evidence before me, I concur with the appellant that No 16 is situated within Public Transport Accessibility Level rating 3 and that Woodgrange Park is the nearest station. These are not matters pertaining to the main issues, and I attach little weight to the site's connectivity to public transport.
17. Whether or not No 16 has local services and amenities within walking distance, or that the proposed personal washing and WC facilities would meet the East London HMO Guidance, or that the property could be used as a single household if local demand prevailed, are not determinative in respect of the main issues in this appeal.
18. Even if there is no dispute with regard to the size of the kitchen, it would be important to ensure that the required number of facilities could be accommodated. As suggested by the appellant, this matter could be addressed by a suitably worded condition if I were minded to allow the appeal.
19. The appellant's plan ref HP-NR-01 shows two bins located to the front of No 16. It would be important to ensure that details of waste management could be accommodated within the site at an appropriate level for the use. As suggested by both parties, this matter could be addressed by a suitably worded condition if I were minded to allow the appeal.

20. Although my attention has been drawn to paragraph 11 of the Framework and the judgment², there is no part of the appellant's case which points to policies being out of date. As such, this decision falls to be determined within a normal planning balance.
21. Furthermore, the absence of harm to existing nearby occupants, with particular regard to noise and disturbance, transportation, environmental or ecological are neutral matters in the overall planning balance as these would be likely requirements of a well-designed development.

Planning Balance and Conclusion

22. HMO provision forms an important part of the housing supply in London. However, even if the proposed development could provide sufficient cycle parking to promote sustainable modes of transport, the proposal would result in the loss of a 3 bed dwelling from the Borough's housing stock, which is suitable for family accommodation. This harm is the overriding consideration in this case.
23. On balance, and for the reasons given above, I find that the proposal would conflict with the development plan when read as a whole, and other relevant considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

L Clark

INSPECTOR

² Wavendon Properties Ltd v SoSoHCLG & Milton Keynes Council [2019] EWHC 1424 (Admin)