



Appeal Decision

Site visit made on 8 June 2021

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2021.

Appeal Ref: APP/W5780/W/20/3263096

164 Kingston Road, Ilford IG1 1PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Marbeq Limited against the decision of the Council of the London Borough of Redbridge. The application Ref 1662/20, dated 9 June 2020, was refused by notice dated 5 August 2020.
 - The proposal is described as change of use from current max 6 person HMO (C4 use Class) to accommodate a max of 7 people (larger HMO - Sui Generis use Class).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from current max 6 person HMO (C4 use Class) to accommodate a max of 7 people (larger HMO - Sui Generis use Class) at 164 Kingston Road, Ilford IG1 1PE in accordance with the terms of the application, 1662/20, dated 9 June 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Block Plan, 201, 202, 203, 301 and 502.

Application for costs

2. An application for costs was made by Marbeq Limited against the Council of the London Borough of Redbridge. This application is the subject of a separate Decision.

Procedural Matter

3. Since the submission of the appeal the London Plan 2021 has been published. The Council's reason for refusal No. 4 includes a policy within the London Plan 2016. The London Plan 2021 does not diverge significantly from the previous plan in terms of seeking to ensure adequate access to sustainable forms of transport are provided. No party has been prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.
4. I understand that the Council does not seek the requested payment to mitigate the effect of the proposal on the Epping Forest Special Area of Conservation,

referenced in reason for refusal No. 3. I shall deal with this appeal on that basis.

Main Issues

5. The main issues in this case are the effect of the proposal on:
 - (i) the balance of family sized housing within the Borough and on the character and appearance of the area in general;
 - (ii) the living conditions of future occupants of the property;
 - (iii) the provision of cycle parking facilities; and
 - (iv) highway safety.

Reasons

Family sized housing

6. Policy LP6 of the Redbridge Local Plan 2015-2030 (2018) (the Local Plan) supports proposals involving the conversion of larger homes into Multiple Residential Occupation (Sui Generis) subject to criteria. There is disagreement between parties as to the application of this policy. The appeal site has an established lawful use as a C4 6 person HMO¹.
7. I understand that there is an Article 4 Direction in place restricting the permitted development right to change from a C3 dwellinghouse to C4 HMO. However, I have not been provided with substantive evidence to demonstrate that there has been removal of permitted development rights which allow a change from C4 HMO to C3 dwellinghouse. Whilst unlikely to occur, the property could revert back to a C3 dwellinghouse under permitted development rights, regardless of the existing lawful use. This offers a fallback position which I give weight to.
8. Taking this into account, the proposal would not comply with the relevant criteria outlined in policy LP6 namely that the site is not located in a Metropolitan, District or Local Centre, is below 180 sqm of gross floor space and a management plan is not before me.
9. Notwithstanding this I am mindful that although the property is in use as a C4 HMO for 6 people and whilst the intensification of a use can amount to a material change of use, the mere intensification does not in itself constitute a material change of use. A key factor in this respect is whether the degree of intensification is such that it amounts to a material change in the character of the use.
10. The evidence before me does not persuade me that the addition of one occupant at the property, sharing an existing bedroom with minimal internal alterations to the existing HMO would create specific problems or cause a change in activity which would affect the character of the existing property or area.
11. The Council confirm in the Officer Report that the increase in the number of unrelated adults living at this site by one is unlikely to result in more frequent comings and goings and differing patterns of behaviour than would normally be

¹ Ref: 0303/17

associated with a single-family dwelling and would not involve significant material intensification of the use of the building and the associated increase in the number of refuse bins, level of noise, disturbance and general activity within the site combined with pressure for on-street parking for future residents and visitors would not have significant harm on the amenities of the neighbouring residents. I agree.

12. Whilst there is conflict with Policy LP6, I conclude that the proposal would comply with Local Plan Policies LP5 and LP26 which seek amongst other things to secure a range of homes to contribute to the creation of mixed, inclusive and sustainable communities, and for developments to integrate and respect the surrounding area.
13. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that if regard to the development plan is to be had then determination of an appeal must be made in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy Framework (2021) also makes it clear; the development plan is the 'starting point for decision making', not its end.
14. I find that there is a potential loss of a family sized housing, based on the existing permitted development rights, however as a material consideration I find that the addition of one occupant sharing an existing bedroom would not materially alter the character and appearance of the property or area in general.
15. Whilst the proposed change of use to a Sui Generis 7 person HMO would fall outside the classification of Use Class C4, the circumstances of this case are such that I find that as a matter of fact and degree, the proposed use would not amount to a material change of use.

Living conditions future occupiers

16. The configuration and use of the existing rooms have been confirmed through the established lawful use, the application relates to an additional occupant.
17. The Council's Housing Design, Supplementary Planning Document (2019) (the SPD) sets out in Appendix A space standards for HMOs. Bedroom 1 on the second floor is proposed as a double bedroom to accommodate the additional occupant and exceeds the space standard set out in the SPD.
18. The Council contend that the proposal would not provide adequate communal areas. The SPD states that a kitchen should be a minimum of 9.5sqm, the property has a kitchen area of 9.6 sqm. Where a kitchen is shared with other living areas the SPD sets criteria for minimum combined floor area which does not exceed the standards for a HMO with over 6 occupants.
19. The kitchen is separate to the communal living room, the SPD states that the space standard should be at least 13 sqm for 3 people plus 1 sqm for every additional person, in this instance the communal living room is 17sqm which complies with the SPD.
20. Whilst the SPD recommends that both of these rooms have external windows and a utility room should be provided, I am mindful that this is an existing layout already used as a HMO.

21. I find that there would be no harm to the living conditions of future occupants of the property. There is no conflict with Local Plan Policy LP26 which seeks to ensure high standards of accommodation. There is no conflict with the SPD which amongst other things sets out space standards for HMOs.

Cycle parking

22. Local Plan Policy LP23 seeks amongst other things to ensure secure, accessible and sheltered cycle parking is provided. The Appellant has supplied plans and details which were not considered by the Council during the determination of the application, which demonstrate that cycle parking facilities for 6 bicycles could be provided at the site. Notwithstanding this during my site visit I observed that there was ample space to accommodate secure cycle parking within the rear private outdoor space.
23. The provision of cycle parking facilities would improve access to sustainable forms of transport and could be controlled by the imposition of a planning condition.
24. I conclude that the proposal could provide cycle parking facilities and therefore there would be no conflict with Policies LP22 and LP23 of the and Local Plan, the London Plan 2021 and the London Cycling Design Standards (2016) which amongst other things encourages sustainable forms of transport.
25. Notwithstanding this the imposition of such a condition would not be reasonable or necessary given the proposal before me is not a material change of use.

Highway safety

26. Local Plan Policy LP23 seeks amongst other things that developments meet parking standards set out in the London Plan, in this instance for residential use 1 space maximum per dwelling.
27. A dropped kerb exists to the front of the property which could facilitate off street parking similar to other properties in the immediate area. At the time of my site visit whilst a busy road there was capacity for parking within the immediate area. Notwithstanding this I have not been provided with substantive evidence to persuade me that one additional occupant would put severe strain on the existing parking situation in the vicinity of the site which would cause additional noise and disturbance to local residents.
28. I conclude that the proposal would not have an unacceptable effect on highway safety. There is no conflict with Policy LP23 of the Local Plan and the SPD which seeks to secure a more sustainable transport network.

Conclusion

29. I have had regard to the national policy and guidance and apart from the standard time limit condition, I find it necessary that the proposal should be implemented to accord with the submitted plans for certainty.
30. The Council suggest a number of conditions including car surveys to assess capacity, cycle parking provision, a HMO management plan and that the communal space should be retained and not used as bedrooms. These conditions are not necessary nor reasonable.

31. Fundamentally the proposal is for one additional occupant which based on the circumstances of this proposal I have found would not amount to a material change of use of the property. This is a material consideration I give substantial weight to.
32. For the reasons given above I conclude that the appeal should be allowed.

C Pipe

INSPECTOR