

Appeal Decision

Site visit made on 16 January 2017

by Diane Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 February 2017

Appeal Ref: APP/B5480/C/16/3152397

7 Boundary Road, Romford, Essex RM1 2PX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Surinder Singh Sumbal against an enforcement notice issued by the Council of the London Borough of Havering.
 - The enforcement notice was issued on 14 April 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use from a single family dwelling house (Class C3) to a hotel (Class C1).
 - The requirements of the notice are: (i) Cease using the property as a hotel (Class C1); (ii) Remove all facilities in connection with or that facilitate the use as a hotel and return the property to its lawful use as a single family dwelling house (Class C3); and (iii) Remove all materials and debris from the site associated with requirement (ii).
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of 'and return the property to its lawful use as a single family dwelling house (Class C3)' from step (ii) of paragraph 5 of the notice. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The notice

2. The second requirement of step (ii), in paragraph 5 of the notice, seeks to limit the future use of the property to a specified purpose. This is an excessive requirement because it could ostensibly prohibit other lawful uses. I will therefore vary the notice to delete this requirement. This would not result in either injustice or prejudice to the appellant or the Council.

The ground (a) appeal and deemed planning application

Main Issues

3. The main issues in this case are the effect of the development on i) the stock of family housing in the borough; ii) the living conditions of neighbouring occupiers, having regard to noise and disturbance; and iii) highway safety, with particular regard to the provision of off-street parking and cycle space.
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Reasons

Housing stock

4. The appeal site is situated towards the northern end of Boundary Road and relates to an end of terrace, two storey, house that has been extended to the side and rear. Boundary Road is a short residential street which links Milton Road and Brentwood Road, which are also residential in character. The accommodation is a good size with three, ground floor, reception rooms, five bedrooms at first floor level, a number of bathrooms, a rear garden and off-street parking to the front for two cars.
5. I am advised by the Council that the appeal site was formerly occupied as a single dwelling house before the unauthorised use as a hotel began. At the site visit the property was vacant and a new kitchen had replaced what I understand was a bedroom area for the hotel use. However, it is the layout and use of the property at the time when the notice was issued that is the appeal before me now.
6. For the purpose of my determination under the Planning Acts I am required to have regard to the development plan, unless material considerations indicate otherwise. The development plan in this instance is the Council's Core Strategy and Development Control Policies Development Plan Document (DPD), adopted 2008 and The London Plan¹ (TLP).
7. Policies CP1 and DC1 of the DPD seek to resist the loss of housing due to high levels of housing need and the demand for new housing. There are exceptions to Policy DC1 such as if new development involves the provision of essential community facilities. However, these are defined² as meeting the specific needs of the community, such as the provision of education or health facilities, whereas hotels are seen as strengthening the role of town centres, as set out in DPD Policy DC14. Furthermore, the National Planning Policy Framework (the Framework) sets out the need to boost significantly the supply of housing. It states Councils should use their evidence base to ensure that their local plan meets the need for housing in the housing market area.
8. The appellant converted the dwelling into a nine bedroom hotel which I consider resulted in the removal of a large dwelling with a rear garden from the local housing market. He states that the conversion of dwellings into hotels is a long established practice; that hotels provide tourists with a form of residential accommodation and that hotels meet the needs of the community. However, Policy DC1 does not identify hotels as an essential community facility and Policy DC14 requires smaller hotels to be close to public transport. In this instance the Council advises this is not the case as the appeal site is 'some 10-15 minutes' walk for an able bodied person' from the nearest railway station. As guests would probably be carrying luggage, I consider this is not an ideal location and is not close to public transport. Furthermore, hotels do not provide permanent residential accommodation which is the form of housing most in need. The appellant also submits that the Council is meeting its housing requirements and makes reference to the DPD but provides no further elaboration to support his statement.

¹ The London Plan: The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2015

² Policy CP8 of the DPD

9. On the first issue I find that the development reduces the Council's stock of housing. Resisting such loss is a key part of the Council's overall strategy for meeting targets to deliver the levels of housing need in the Borough, as set out in Policy CP1. I conclude therefore that this aspect of the development has an unacceptable effect on the Borough's housing stock and it therefore conflicts with Policies CP1, DC1 and DC14 of the DPD.

Living conditions

10. The property was converted into a hotel with four bedrooms on the ground floor and five on the first floor. I consider with this number of bedrooms that this results in increased, noticeable levels of activities both within and outside the building when compared to that of the likely level of activity of the lawful residential use of the property. This level of activity associated with the hotel has a particularly adverse effect in a number of ways on the living conditions of the adjoining neighbouring occupiers at No 5 and the surrounding area.
11. Inside the building, there are hotel rooms abutting bedrooms at No 5. These and other rooms in the hotel have flat-screen televisions and DVD players mounted on the wall. As there is no lounge in the hotel, rooms are used as living areas as well as sleeping areas. The Council point out that they were not aware of any particular additional sound insulation between the properties which would mitigate the disturbance from the activities within the hotel rooms for the occupiers of No 5.
12. Third parties also describe the anti-social behaviour of some of the guests. This includes spitting out of windows, doors being constantly slammed and some guests standing on the doorstep drinking alcohol and smoking cannabis and cigarettes. However, the appellant points out that the level of activity within this small hotel is no different from occupation of the property by a large family. There is also no bar, meeting rooms or a function room within the building. I find that there is a material difference between occupation as a hotel, where there is a turnover of guests with no relationship to the local community and occupation as a single dwelling house where those community links are likely to exist.
13. Outside the building, the appeal property has a wide frontage that has been hard surfaced and is used for off-street parking. No 5 has a living area and bedroom overlooking the front of the property.
14. The hotel use results in a number of cars being double-parked, three abreast on the hotel frontage. Third parties provided photographs of this level of parking taking place, which the appellant does not dispute. I find that there is insufficient depth and width on the site frontage to accommodate this number of vehicles and as a result cars are parked overhanging more or less the whole width of the pavement. This means pedestrians have to step into the road and third parties describe the difficulties this caused when walking with young children to and from school.
15. I also consider the excessive number of cars that have been parked across the frontage result in noise and disturbance to nearby residents. This arises from the ignition of engines, car doors being closed and having to manoeuvre vehicles to access individual cars. This was described by one third party as 'constant parking wars'. All of this activity is in close proximity to the habitable rooms at No 5 and is unacceptably intrusive, particularly of an evening.

16. Also, outside the building, the hotel use results in disturbance to residents from inappropriately stored refuse material, which affects the wider area. Third parties state that filled refuse sacks were left outside the boundary of the property which were then ripped open by animals and the contents strewn everywhere. They submit photographs to support their statements. Whilst these do not demonstrate that the rubbish lying adjacent to and around the appeal site came from the appeal site, the appellant does not dispute what is claimed.
17. On the second issue I find that the use of the property as a hotel adversely affects the living conditions of neighbouring occupiers, having regard to noise and disturbance. The development therefore conflicts with Policies DC33, DC55 and DC61 of the DPD and Policy 7.15 of TLP. These policies require amongst other matters that noise sensitive developments should be protected from unacceptable levels of noise and that planning permission will only be granted for development that maintains the character of the local area.

Parking and cycle provision

18. Boundary Road and the surrounding area are within a controlled parking zone (CPZ) which prohibits on-street parking for non-residents between 8.30am and 6.30pm Monday to Saturday.
19. The appellant submits that the frontage parking meets the needs of the hotel use and that there is a choice of public transport facilities in the area. The hotel is also in close proximity to the town centre. The Council submit that the car parking provision should have been one space per room as the site is not near the town centre.³ However, I consider given the poor Public Transport Accessibility Level 2 for the site, the existence of the CPZ and the distance from the town centre, that the limited off-street parking on the site frontage is insufficient for the size of the hotel.
20. As the front of the property is used for off-street parking there is no room for the provision of any cycle facilities. However, the appeal site flanks a service road where there is the potential to access cycle facilities in the rear garden; the appellant though has made no such provision.
21. On the third issue I find that the development fails to make sufficient provision for off-street parking and cycle spaces. The development therefore conflicts with Policies DC33 and DC35 of the DPD which require such provision.
22. The appeal on ground (a) therefore fails.

The appeal on ground (g)

23. This ground of appeal is that the time given to comply with the requirements of the notice is too short. The appellant requests that the two month period be increased to nine months to take account of advance bookings. The Council comment that the appellant has not submitted any evidence of advance bookings and state two months would be sufficient for him to contact anybody who had made any bookings. They would then have time to make alternative arrangements.

³ Policy DC33 DPD

24. The Council are also of the view that a short compliance period is necessary because of the serious harm to residents' living conditions caused by the unauthorised use. At the site visit it looked like the unauthorised use had already ceased. One of the ground floor rooms had been replaced with a kitchen and all the beds, televisions and furniture associated with the use, seen in the Council's extracts of photographs from web sites advertising the hotel, had been removed.
25. In cases involving business operations it is necessary to weigh the interests of the business against the harm caused by the activities the subject of the notice. On the other hand the use enforced against seriously harms the living conditions of nearby residents. Taking all these matters into account, as well as the removal of all the furniture which facilitated the use, I conclude that the period for compliance is reasonable. The appeal on ground (g) therefore fails.

Conclusion

26. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

D Fleming

INSPECTOR