



Officer Report

Application Number:	HGY/2022/1740
Application Type:	Full planning permission
Address:	28, Eastern Road, London, N22 7DD
Proposal:	Change of use from a four-bedroom self-contained flat to care accommodation
Case Officer:	Nathan Keyte
Valid Date:	
Applicant:	Mr David Smith
Agent:	Mr David Walker

RECOMMENDATION

Refuse

1. SITE DESCRIPTION

1.1. The application site relates to a two-storey end of terrace house with loft conversion and rear extensions. The site had permission in 2015 for extensions and conversion into multiple flats. Given such works and the associated internal conversion (i.e. number of bedrooms) was not implemented in accordance with this planning consent the de-fault lawful use of this property is still a 'single family dwelling'. As such in considering the last planning application HGY/2020/2589 for this site, the existing lawful use was considered a single 4-bedroom dwelling.

1.2. The site is not located in a conservation area but is located within the designated 'Family Housing Protection Zone'.

2. PROPOSED DEVELOPMENT

2.1. This application seeks retrospectively to seek consent to change the use of the building from a dwelling to care accommodation facility known as 'Eastern Lodge'. Care is to be undertaken by Excellence Care Ltd, a company which is registered with the Care Quality Commission (CQC). The care provided is stated within the 'Statement of Purpose' provided to be 'care and support for people with enduring mental health problems, complex needs and learning disabilities, enabling them to achieve their maximum level of functioning and improving their quality of life in the community.'

2.2. The building is structured to provide four independent flats (1 x 1 bedroom and 3 x 2 bedroom), with 24-hour care assistant office. The existing rear storage building is proposed to house cycle stands, with additional visitor stands provided in the rear yard.

2.3. Staff support individuals in their own flats, including assistance in cooking where required. Additional information provided by the applicant states with regard to care provided:

- Staff support clients in their own home. They work with individuals based on their needs, some clients receive 1:1 support for certain tasks, some receive 1:1 support during the day or at

times at night. Others might only receive shared support. These are all depending on client needs as and when assessed.

· Currently the staff run on a roster basis. This is completed by management and staff manage their daily tasks that are required on a daily basis. This also includes health and safety checks, welfare checks and general compliance checks completed each day, weekly fire checks etc.

2.4. There will generally be 7 residents and a maximum of 3 staff. However, it is noted from the proposed floor plan that double beds are shown within four of the bedrooms. This would indicate a potential occupancy of 11 residents and 3 staff.

2.5. Correspondence with the agent has lead to a better understanding of the nature of what is proposed. The Agent for the application has stated that the use sought would be C2 'Residential Institution'. Revised statement of purposes have also been provided, relating to the use proposed to occur on the site. Each tenant is understood to have an individual agreement with the care provider.

2.6. As reflected below in the deliberations on the merits of this case the LPA view that there is still uncertainty into which use class the proposal falls into. Specifically, taking account of the level of care provided as reflected in the planning submission and taking account of the way the property is converted and used, it cannot be definitively established as to whether the use falls within Class C3(b) or Class C2. As such the merits of both are considered below.

2.7. To understand the use here (difference between Class C3(b) or Class C2) it needs to be established as to whether the occupants of the property are in need of some assistance/ care or whether care provided is to support the needs of people in need of significant care.

3. RELEVANT PLANNING AND ENFORCEMENT HISTORY

HGY/2013/2637,

Address: 28, Eastern Road, London, N22 7DD

Proposal: Conversion of single family dwelling into 3 self-contained flats comprising of 1 x 3 bed, 1 x 2 bed and 1 x Studio flat and associated works.,

Decision Date: 20 June 2014

Decision: Approve with Conditions

Decision: Withdrawn

HGY/2015/2073,

Address: 28, Eastern Road, London, N22 7DD

Proposal: Alteration and extension of property to convert single family dwelling into 4 self-contained flats (1 x studio, 2 x 1 bed flats, and 1 x 1 bed maisonette),

Decision Date: 2 October 2015

Decision: Approve with Conditions

HGY/2020/2589,

Address: 28, Eastern Road, London, N22 7DD

Proposal: Retrospective application for conversion of single dwelling to 4 x self-contained flats, in conjunction with single storey rear extension; rear dormer roof extensions to main roof and rear outrigger; alterations to existing windows; installation of front rooflights; subdivision of rear garden; and erection of bike and refuse stores (deviation from approved drawings under HGY/2015/2073),

Decision Date: 15 December 2020

Decision: Refuse

Reasons for refusal:

1. *The proposed conversion of the family dwelling to 4 x self-contained flats will result in the loss of a family sized unit (within the Family Housing Protection Zone) for which there is an identified need, contrary to Policy SP2 of the Haringey Local Plan 2017 and Policy DM16 of Haringey's Development Management DPD (2017).*

2. *The proposed conversion would create living accommodation, which would fail to comply with minimum internal floor standards and substandard floor to ceiling heights for flat 4 contrary to Policy 3.5 of the London Plan 2016, Policy SP2 of the Haringey Local Plan 2017 and Policy DM16 of Haringey's Development Management DPD (2017) and Technical Standard 10 of the Technical Housing Standards - Nationally Described Space Standards (2015).*

3. *In the absence of a S106 agreement to secure car-free housing for the proposed flats and substandard cycle parking arrangement the flats would fail to provide sustainable transport response in accordance with Local Plan (2017) Policy SP7 and Development Management DPD (2017) Policies DM16, DM31 and DM32.*

3.1. There was an appeal associated with this refused application, APP/Y5420/W/21/3271972, which was dismissed 1 February 2022. The appeal upheld the reasons for refusal, on the grounds of the loss of family housing and substandard size of flats being provided. The development also fail for not providing parking for disabled people, and where no parking survey was provided, though cycle parking was considered able to be addressed by a suitably worded condition.

4. CONSULTATION RESPONSES

Internal:

LBH Cleansing: If to be a care facility, would require commercial waste collection to be arranged.

LBH Transportation Group: No response.

LBH Adult Social Services:

The statement of purpose and the CQC registration for this provider specifically relate to Supported Living and Personal Care, which falls under the category of a Social Care Setting. The CQC defines supported living as schemes that offer personal care to individuals as part of the support they need to reside in their own homes. Personal care is provided separately from housing arrangements, even though both aspects may be provided by the same provider under distinct contractual agreements. Typically, accommodation in supported living settings may be shared rather than individual households.

Based on this definition, it appears that this provider offers both accommodation and care services, albeit under separate contracts. It also appears from the plans you attach that there are multiple self-contained flats/households within this scheme.

External

NHS Haringey: No response.

Three Avenues Residents Association: No response.

Neighbour Consultation

The application has been publicised by the way of letters and public notice.

Five objections were received.

The objections raised the following material planning matters:

- Noise;
- Impacts upon traffic and parking;
- Eastern Road is a narrow road and does not have the infrastructure to cope with additional traffic, and is unable to deal with more traffic from visitors, staff, cleaners etc associated with care accommodation;
- The site is an inappropriate location for a care home.

5. MATERIAL PLANNING CONSIDERATIONS

C2 Use - Residential Institution

5.1. In planning use class terms a 'C2 use' comprises of the use for the provision of residential accommodation and care to people in need of care (other than a use within a Class C3 dwellinghouse).

5.2. Policy DM15 of the Development Management DPD relates to Specialist Housing. This policy set out that the Council will support proposals for new special needs housing where a number of factors are met. Such factors include there being a good level of accessibility to public transport and shops, consideration of the impact of the proposed development to the amenity of the surrounding area and on local services. With regards to residents of the Specialist Housing themselves, there needs to be an established local need for the form of specialist housing sought, and where there are a number of requirements to be met for standards of housing and facilities to be suitable.

5.3. It is accepted that family homes as adopted play a role in the Government's approach to the provision of care within the community and as such there is no in principle objections to the provision of such accommodation, subject to providing an acceptable quality of accommodation and protecting neighbouring amenity etc. However, no evidence has been put forward regarding the establishment of local need in this particular location.

5.4. As reflected above it is noted the property is divided internally into flats for which it is accepted there is no prescriptive standard in planning policy in terms of unit size/ floorspace when it comes to C2 use. Specifically, it is accepted that a unit of accommodation within a C2 use/ care facility does not need to meet prescribed standards for a self-contained unit as occupants would have access to communal facilities integral and common to a care facility as such compensating for smaller unit sizes.

5.5. In considering if the use as presented is truly a C2 use, Officers attention is drawn to the fact that no communal accommodation is provided with the conversion/ layout shown. It is noted that one room is used as an office for the support workers. As such this lack of communal accommodation as a matter of fact and degree strongly suggests that the use falls outside use class C2 and rather is more akin to C3(b), as discussed above.

5.6. While the property here benefits from a generous sized rear garden the current internal layout does not allow for convenient access for the different residents. Such lack of access to amenity space provides a poor standard of accommodation for the occupants of such a building, mindful in particular of the needs to provide such facilities for the wellbeing of vulnerable occupants with likely difficulties in accessing public open space.

5.7. Overall, the lack of communal accommodation and poor access to amenity space, in addition to a lack of evidence for the established need for the Specialist Housing as proposed in this location, means the proposal does not satisfy the requirements of Policy DM15.

C3 (b) Use – Supported Housing

5.8. In planning land use terms a single family dwellinghouse falls within use class C3 with it possible to move to Use Class C3(b) includes where not more than 6 residents live together as a single household and care is provided for residents. As reflected above the property in question has been divided into self contained units as such meaning the use of this property for multiple C3(b) uses needs to be considered.

5.9. Similar in considering the conversion of a single-family dwelling into flats, in order for the units of accommodation created here by way of the conversion to fall within Class C3(b) use class, these need to meet the relevant floorspace standards/ room sizes. In broader terms the use of this property for multiple C3(b) uses is the same as a C3 use for flats. In addition, the qualitative aspect of the units of the accommodation created, in line with the London plan, also need to be considered.

5.10. The proposed floor plans differ from the 2020 Appeal scheme, introducing additional bedrooms into the scheme from what was previously shown on the plans. The Inspector in the 2020 Appeal had considered the proposed flats on the basis of one bedroom per flat.

5.11. The applicant has clarified the following regarding occupation of the flats proposed:

Flat 1: Will have only 1 client

Flat 2: Can accommodate 2 clients but have only one at present because of their needs. The second bedroom is indicated as flat 2 is used as a sensory room.

Flat 3: Can accommodate 2 clients but currently have only 1 client, until we can get referred to someone suitable.

Flat 4: Can accommodate 2 clients but currently have 1 client because of their needs.

Also as clearly marked on the drawings, each flat has their own living arrears and shared facilities.(Please refer to attached)

Flat 1: 1 Client- No sharing.

Flat 2: 1 Client- No sharing at present.

Flat 3: 1 Client- No sharing at present.

Flat 4: 1 Client- No sharing at present.

5.12. However, as noted earlier, from the proposed floorplan as double beds are shown and these are considered in the occupancy levels for the London Plan requirements, which does not include space standards for 2b2p in Table 3.1.

5.13. No beds have been shown in bedroom 2 of Flat 2, Bedroom 3 of Flat 3, or Bedroom 7 of Flat 4. Based on the size of the rooms and the information above, these are taken to be single rooms for the purposes of the assessment of space standards.

5.14. No cross sections have been provided with the current application. However, it was noted within the 2020 Officer's report that Flat 4 would not likely have sufficient headspace to meet the requirements of the London Plan, requiring 2.5m across 75% of the gross internal area. No further evidence has been submitted with this current application to clarify this issue.

5.15. There is also concern with the layout of the proposal with relation to Flat 1, where due to the location of the 'Care Assistant Office', the bathroom provided is not private to Flat 1.

5.16. As reflected above there are concern regarding the nature and use of external open space. It is not clear whether the patio areas at ground level would be reserved for use by Flat 2 alone. If it

were, there would be a further shortfall in living standards provided to the units. If it were communal, there would be concerns regarding impacts on the privacy of Flat 2, noting the location and orientation of the Living room to the outdoor area.

5.17. Given the above, in particular the additional bedrooms shown and shortfall in floorspace, the proposed units would not provide an acceptable standard of accommodation for future occupiers.

Principle of Conversion

5.18. The site is located within the Borough's Family Housing Protection Zone. The Officer report for planning application HGY/2020/2589 outlined the policy approach for conversions in this area, being Policy DM16 of the Development Management DPD (2017), which seeks to maintain a supply of larger family homes within the Borough's Family Housing Protection Zone. The policy has emerged since the 2015 permission was granted.

5.19. As noted within the 2020 Officer's report, the parts of the Borough which have been identified as already having a high concentration of converted properties are included within the 'Family Housing Protection Zone' (FHPZ). Within this zone the Council aims to avoid any further cumulative impacts caused by conversions, by protecting the existing stock of family homes and restricting residential conversions. The application site falls within the FHPZ. Part B of the policy applies a two part test for assessing proposed conversions within the FHPZ. This states that proposals will only be considered acceptable the original dwelling is over 120sqm and that the development results in no net loss in the number of family sized units and a mix of unit sizes.

5.20. The report went on to note that as no family sized unit was being proposed, the principle of conversion in this instance would be contrary to policy DM16 due to the loss of family accommodation. In the subsequent Appeal decision, the Inspector upheld this conclusion.

5.21. Were the proposal to be considered under C3b, it would result in a conversion of an existing dwelling to flats in C3(b) uses, the above conclusions are considered to remain applicable and would therefore result in a loss of family housing within the FHPZ. The principle of development therefore remains contrary to Policy DM16.

Design & Appearance

5.22. Policy SP11 of the Strategic Plan and Policy DM1 of the Development Management DPD both aim to enhance the built environment through high quality design that respects local context and positive aspects of the area. Policy DM1 sets out that development should relate positively to its locality in terms of building height, form, scale, massing, building lines and architectural details and styles.

5.23. DPD Policy DM12 'Housing Design and Quality' states that extensions or alterations to residential buildings, including roof extensions will be required to be of a high, site specific, and sensitive design quality, and respect and/ or complement the form, setting, period, architectural characteristics and detailing of the original building, including external features such as chimneys, and porches. High quality matching or complementary materials should be used appropriately and sensitively in relation to the context.

5.24. The submitted application does not make specific reference to the proposal seeking extensions to built form. The 2020 Officer's report commented on the time with regard to the changes in built form wrought since the 2015 permission, noting:

5.25. The scale of the rear roof extensions has been increased from that approved but would retain sufficient subordination within the outrigger and to the main roof to be acceptable. It is noted that the amount of floorspace provided in the roof space has increased from that indicated on the approved drawings but there has been no front extension to achieve this, so is acceptable in design grounds.

5.26. It is noted that rooflights are not accurately portrayed on plan and that both front rooflights and the rear rooflight on top of the roof extension project above the roof plane.

5.27. Likewise, it is noted that the outbuilding approved at the rear of the garden has not been implemented in accordance with the 2015 permission. The applicant has stated that this was a garage that pre-dated the approved plans. Regardless this is not as shown on the proposed plans and would need to be regularised or modified.

5.28. Additional plans would be required to be submitted were the application otherwise be found to be acceptable so that the full extent of the changes to this property can be formally considered.

Impact on Residential Amenity

5.29. London Plan Policy D6 outlines that design must not be detrimental to the amenity of surrounding housing, in specific stating that proposals should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, while also minimising overshadowing.

5.30. DPD Policy DM1 'Delivering High Quality Design' states that development proposals must ensure a high standard of privacy and amenity for a development's users and neighbours. Specifically, proposals are required to provide appropriate sunlight, daylight and aspects to adjacent buildings and land, and to provide an appropriate amount of privacy to neighbouring properties to avoid overlooking and loss of privacy and detriment to the amenity of neighbouring residents.

5.31. The change in built form was considered to be acceptable with regard to neighbouring amenity in the 2020 Officers Report.

5.32. Objections following consultation have been received, as set out above, noting concerns about noise from the proposed development on amenity. Regarding impacts resulting from the change in use from a dwelling to either C2 or C3b use, it is accepted there will be additional comings and goings as a result of staff and additional persons utilising the site.

5.33. However, the proposed conversion, layout, use and level of occupancy is not viewed to result in a material or significant increase in noise and disturbance over and above that of a family occupying such a large dwelling that would justify the refusal of the application.

Transport and Parking

5.34. London Plan Policy T1 requires all development to make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes, and to ensure that any impacts on London's transport networks and supporting infrastructure are mitigated. Policies T4, T5 and T6 set out key principles for the assessment of development impacts on the highway network in terms of trip generation, parking demand and cycling provision.

5.35. Local Plan (2017) Policy SP7 Transport states that the Council aims to tackle climate change, improve local place shaping and public realm, and environmental and transport quality

and safety by promoting public transport, walking and cycling and seeking to locate major trip generating developments in locations with good access to public transport. This is supported by DM Policy (2017) DM31 'Sustainable Transport'.

5.36. Objections received during the consultation cite parking stress and vehicle movements associate with a care home activity on the street as causes for concern.

5.37. The site has a PTAL score of 4 and is located within a CPZ. The submitted application states that the proposal will be 'car free' with the applicant prepared to enter a s106 agreement towards the amendment of the Traffic Management Order. This could have been secured were the application otherwise found to be acceptable. The CPZ would act as a strong deterrent for visitor parking.

5.38. As noted in the dismissed Appeal decision, the Inspector considered that provision of cycle parking would be able to be provided with a suitably worded condition.

6. REASONS FOR REFUSAL

Refusal Reasons:

The proposed change of use by reason of the lack of clarity relating to the nature of care provided in conjunction with the conversion, standard of accommodation and layout of this property including access arrangements to amenity space as implemented, in the opinion of the Local Planning Authority provides a deficient quality of accommodation for the occupants of this building, as such contrary to the relevant policies in relation to C3(b) (Supported Housing) or C2 use (Residential Institution) as applicable, specifically contrary to policies DM15, DM16 policies DM1 and DM12 of the Haringey Development Management DPD (2017), policy SP2 of the Haringey Strategic Local Plan (Updated 2017) and policies D6 and H1 of the London Plan (2021).

In the absence of establishing an acceptable C3(b) (Supported Housing) or need for a C2 (Residential Institution) use, mean that the conversion and adaptations carried out to this property do not outweigh or compensate for the loss of a single-family dwelling within a Family Housing Protection Zone, as such contrary to policy DM16 of Haringey's Development Management DPD (2017).