

Appeal Decision

Site visit made on 20 September 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 20 October 2016

Appeal Ref: APP/G5180/W/16/3152702
79 East Drive, Orpington BR5 2BY

- 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 Mr Paul Kutchera against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/01428/FULL1, dated 20 March 2016, was refused by notice dated 18 May 2016.
 - The development is described as retrospective change of use of a 6-bed House of Multiple Occupation (C4) to an 8-person House of Multiple Occupation (Sui Generis).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form states that the change of use started in August 2014 and at the time of my visit there were 8 bedrooms at the property.

Main Issues

3. The main issues are:
 - The effect of the development on the living conditions of the occupiers of adjoining residential occupiers having regard to noise and disturbance;
 - Whether future occupiers of the House in Multiple Occupation (HMO) would have satisfactory living conditions having regard to the size of the internal accommodation provided.

Reasons

Living conditions (existing)

4. The appeal site comprises a semi detached property located in a residential area containing similar properties. The property has previously been extended. It is located at the end of East Drive, adjoins a residential dwelling comprising the other half of the semi and is next to a new residential development. At the time of my visit East Drive and the surrounding residential streets were quiet with only a small amount of pedestrian and vehicular traffic. The area does not appear to be characterised by HMOs.
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5. The provision of 8 bedrooms at the property would be likely to generate a significant amount of general activity and comings and goings, more than would be expected from a family dwelling or from a HMO for up to 6 persons as is permitted without planning permission. In general the area is characterised by smaller properties than the appeal building and in any event in my experience large family dwellings are likely to generate less activity and comings and goings than dwellings occupied by 8 individuals. The large amount of activity and comings and goings likely to be associated with the development would generate an increased amount of noise and disturbance that would be harmful to the living conditions of the occupiers of nearby residential occupiers, in particular the occupiers of the adjoining dwelling.
6. I have had regard to the fact that the property is clean and appears to be well managed and that it is said to be aimed at and occupied by young professionals who are out at work during the day. I also note the description of development has been altered to refer to the development being an 8 person HMO. However at the time of my visit I noted that all of the bedrooms have beds that are larger than single beds and also note the comments made by the Inspector who dismissed the previous appeal at the site (Ref 15/02966/FULL1) that single occupancy of the bedrooms could not reasonably be enforced through the planning regime. In any event, for the reasons stated I consider that the use of the property by 8 people would generate an unacceptable level of noise and disturbance having regard to the character of the surrounding area. The fact that no objections have been received from the occupiers of the adjoining dwelling does not mean that the development is acceptable bearing in mind that ownership/management and tenants may change over time.
7. I also note that the appellant makes reference to another appeal decision (Ref APP/Z3635/W/15/3132106) where it is said that an Inspector found no substantive evidence to conclude that the provision of an 8 bedroom HMO would result in a material nuisance or loss of amenity to adjacent users. Reference is also made to the provision of a new development of 8 houses nearby (Ref 11/03762/OUT) and the activity and noise that would generate. However I am not aware of the particular circumstances relating to these cases and in any event, I must determine the development before me on its own merits.
8. Taking the above matters into consideration, I conclude that the development would have an adverse effect on the living conditions of the occupiers of adjoining residential occupiers having regard to noise and disturbance. It is therefore contrary to Policy H11 of the London Borough of Bromley Unitary Development Plan (UDP) which states, amongst other things, that the conversion of a single dwelling into non self-contained accommodation will be permitted provided that the amenities of occupiers of neighbouring dwellings will not be harmed by noise and disturbance.

Living conditions (future)

9. The HMO has four bedrooms on the ground floor and four on the first floor, with two bedrooms on each floor having en suite facilities. There is also a shared living room and kitchen on the ground floor together with an under stairs storage area.
10. In dismissing the previous appeal the Inspector expressed concern with regard to the small size of the bedrooms that were proposed to be formed from a

ground floor living room and first floor study. I note that there is some disagreement between the main parties regarding the dimensions of the three smallest bedrooms, two at ground floor and one at first floor. Using the appellant's figures, since the previous appeal the floor area of one of the ground floor bedrooms has increased by 0.14 square metres whilst the other has increased by 0.11 square metres and there has been no increase in the size of the smallest bedroom at first floor. Though I note that the floor area of all of the three smallest bedrooms now exceeds 7.5 square metres, as stated, at the time of my visit all contained beds larger than a single bed.

11. Consequently having regard to the very modest increase in size of two of the smallest bedrooms and to the fact that there has been no increase in the size of the other, to the fact that all of the bedrooms contain larger than single sized beds and to the findings of the previous Inspector, I consider that the three smallest bedrooms do not provide satisfactory living conditions for future occupiers.
12. In reaching my decision I have had regard to the submitted testimonials and note that the appellant states that tenants at the property have lived there for an average in excess of 19 months. I also note that the appellant states that the development complies with HMO standards for Bromley and that liaison has taken place with the Council's Environmental Health and Licencing departments. However this does not alter my concerns in relation to the size of some of the bedrooms as outlined above.
13. Taking the above matters into consideration, I conclude that future occupiers of the HMO would not have satisfactory living conditions having regard to the size of the internal accommodation provided. The development is therefore contrary to Policy H11 of the UDP and Policy 3.5 of the London Plan. These policies state, amongst other things, that the conversion of a single dwelling into non self-contained accommodation will be permitted provided that the resulting accommodation will provide a satisfactory living environment for the intended occupiers.

Other Matters

14. I have had regard to the fact that the development provides residential accommodation and to the appellant's view that it gives flexibility to young professionals in the area in terms of choice and provides for a growing need for single occupancy and affordable, rented accommodation in a sustainable location. The appellant further states that there is an identified need for this type of housing in the Bromley.
15. I note that the appellant encourages tenants to recycle, will encourage sustainable methods of transport and that energy efficient appliances and fittings are used at the property. I also note that it is stated that health and safety standards are adhered to.
16. However, none of these matters outweigh the harm that I have identified to living conditions and the development is not therefore sustainable development.

Conclusion

17. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR