
Appeal Decision

Site visit made on 29 November 2016

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 05 December 2016

Appeal Ref: APP/N5660/W/16/3157237

314-318 Clapham Road, Lambeth, London SW9 9AE

- 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 Hamid against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/01286/FUL, dated 29 February 2016, was refused by notice dated 29 April 2016.
 - The development proposed is the change of use of first and second floors of the premises to a house in multiple occupation for 9 occupiers (*sui generis*) with associated alterations.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In order to address some of the reasons for refusal and other concerns raised by the Council, the appellant has submitted amended plans which remove two of the bedrooms and replace them with two living rooms thereby reducing the number of occupiers from the original 11 to 9. The amended plans also include the provision of a smaller second floor roof area and to limit the use of the roof terrace. I note that there was some correspondence between the appellant and the Council about this matter prior to the submission of this appeal with the Council confirming that *"I do not think that we would object to the submission of these"*. As the amendments are relatively minor, seek to minimise impacts and would result in fewer occupiers of the house in multiple occupation (HMO), I accept these plans for the purposes of determining the appeal. Consequently, I have amended the description of development so that it refers to 9 instead of 11 occupiers.
3. It is understood that the property has already been used as a HMO and according to the appellant's planning application form it was last used for such a purpose on 30 September 2013. My site visit revealed that internal works of alteration were in the process of being carried out, but that the property was not currently in use as a HMO.

Main Issues

4. The main issues are (i) the effect of the proposal upon the living conditions of the occupiers of the HMO bedrooms which face south east in respect of outlook and light, and upon the occupiers of the properties facing the windows of such
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bedrooms in respect of privacy; (ii) whether or not the access/entrance to the HMO would be acceptable from a pedestrian safety point of view; (iii) the effect of the proposal upon on-street car parking availability and sustainable transport choices and (iv) whether or not there would be adequate shared facilities for the HMO.

Reasons

Site and proposal

5. The appeal site is located on the north western side of Clapham Road. It comprises first floor units located above retail premises and a second floor accessed externally via a roof terrace area. The application building is located to the rear of the building which fronts Clapham Road and is separated from the upper rear floors of this building by a flat roof. The site is accessed from a private entrance at ground floor level using a service alleyway at the rear of the site with stairs leading up to the first floor.
6. It is proposed to use the appeal property as a HMO for up to nine people. The second floor flat roof which is used to access the second floor accommodation would be used as a roof terrace with screening provided.

Living conditions

7. The Council has raised concerns that the HMO rooms would be dark and that the appellant should have submitted a BRE daylight and sunlight survey. However, the appellant commissioned Dixon Payne to undertake such an assessment (in accordance with BRE guidance) and found that the proposal would be acceptable in respect of light. I have not been provided with any evidence to refute the conclusions reached by Dixon Payne. In reaching this conclusion, I have also taken into account the letter prepared by Dixon Payne and submitted by the appellant as part of his final comments. Therefore, on the evidence that is before me (including what I saw on my site visit), I do not consider that the rooms would be unacceptable from a daylight and sunlight point of view.
8. Notwithstanding the above, a number of the bedrooms that face south east also face onto existing properties at a distance of about 10.8 metres. Given the proximity of the windows and the scale of the development opposite, I consider that at this distance there would be an unacceptable loss of privacy for both the occupiers of the HMO bedrooms and the occupiers of the properties opposite. Furthermore, the scale of the development opposite is such that at a distance of approximately 10.8 metres it would have an unacceptably enclosing impact when viewed from the proposed HMO bedrooms.
9. For the reasons outlined above, I therefore conclude that whilst the proposal would be acceptable from a light point of view, material harm would be caused to the occupiers of the HMO, and properties opposite the south east facing bedroom windows, in respect of outlook and privacy. I do not agree with the appellant that it is appropriate to relax normal separation distance standards simply because the appeal site falls within a more urban and built up environment. The proposal would not accord with the amenity aims of Policy H9 of the London Borough of Lambeth Local Plan 2015 (LP).

Site entrance/access

10. The entrance to the appeal site is either from a narrow undercroft on Clapham Road, or from the rear which is used by the occupiers of a number of the ground floor retail premises for servicing and waste storage/collection purposes. As part of my site visit, I was able to see that the undercroft was not long and was lit: both ends of the undercroft could be seen from public areas and at one end it opened into an area which included a number of commercial uses. For these reasons, I do not consider that this would be a threatening environment for occupiers of the HMO.
11. The alternative access route from Levehurst Way would be overlooked by existing flats. As part of my site visit, I was also able to see that there were walkways that were separated from the service yards by bollards and that there were street lamps and CCTV in this area. Consequently, I do not consider that the occupiers of the HMO would feel unsafe and vulnerable. Whilst the wider area is used by service vehicles and for the storage and collection of waste, it would be possible for pedestrians to reach the appeal site without incurring any significant conflict with service vehicles. I acknowledge that the appellant has written to Sainsburys and asked that they do not use land within his ownership for storage or servicing purposes. On my site visit, I noticed that this area was open and included no items of storage.
12. For the above reasons, I conclude that the proposal would accord with the amenity and design aims of Policy 3.5 of the London Plan 2016 and Policies H9 and Q3 of the LP.

On-street car parking and sustainable transport choices

13. There is no dispute between the parties that the site is located within an accessible area where there is a choice of excellent public transport services: according to the Council the site has a PTAL rating of 6a which is "excellent". Taking this into account, I consider that, in the interests of sustainability, it would be necessary to ensure that the occupiers of the HMO were encouraged to use public transport. Furthermore, and as excellent public transport is available, I consider that it would be necessary to ensure that the occupiers of the HMO were restricted from obtaining on-street car parking permits. The appellant accepts the need for this, and has submitted a signed and dated planning obligation to ensure that such a control is in place. The Council raises no issues in respect of the submitted planning obligation.
14. As an acceptable planning obligation has been submitted, I conclude that the proposal would accord with the sustainable travel and parking aims of Policies H9, T1 and T7 of the LP.

Shared facilities

15. The amended plans now show two living room areas as a consequence of the loss of two bedrooms. I am therefore satisfied that the amount of communal/shared space within the HMO is acceptable. In this regard, I conclude that the proposal would not conflict with the amenity aims of Policy H9 of the LP which requires that accommodation is "*suitable for the intended occupiers in terms of the standard of facilities*".

Conclusion

16. A signed and dated planning obligation has been submitted by the appellant to ensure that the proposal is acceptable from a sustainable travel and car parking point of view. Furthermore, I have found that the amended proposal is acceptable in respect of the level of light afforded to rooms, the amount of shared facilities within the HMO and the access/entrance to the appeal site. However, significant harm would be caused in respect of privacy and outlook and for this reason, and taking into account all other matters raised, I therefore conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR