



---

## Appeal Decision

Site visit made on 5 November 2019

**by Julia Gregory BSc(Hons) BTP MRTPI MCMI**

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

**Decision date: 06 December 2019**

---

**Appeal Ref: APP/L5240/W/19/3235477**

**16 and 18 Lawrence Road, London SE25 5AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
  - The appeal is made by Mr Dickinson and Mr McGuire against the decision of the Council of the London Borough of Croydon.
  - The application Ref 19/01637/CONR, dated 3 April 2019, was refused by notice dated 28 June 2019.
  - The application sought planning permission for demolition of existing garages and erection of side and rear extensions to create 6 additional bedrooms to an existing HMO at No 16 and 18 Lawrence Road (amended description) without complying with a condition attached to planning permission Ref 18/03858/FUL, dated 21 January 2019.
  - The condition in dispute is No 6 which states that: *The development hereby permitted shall not serve as a residence for any more than 20 people at any one time.*
  - The reason given for the condition is: *To comply with the Housing Acts requirements providing sufficient space for residents.*
- 

### Decision

1. The appeal is dismissed

### Application for costs

2. An application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

### Main Issue

3. National policy on the use of planning conditions, including the 'six tests' is given in paragraph 55 of the National Planning Policy Framework (the Framework). Planning Conditions should be kept to a minimum and should only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
4. There is no dispute that the condition is enforceable and precise. Therefore, the main issue is whether the condition is necessary, relevant to planning and to the development permitted, and reasonable in all other respects, having regard to the development plan and the Framework.

## Reasons

5. Planning Practice Guidance specifies that conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. Clear and precise reasons must be given by the local planning authority for the imposition of every condition. This is guidance rather than a legislative requirement.
6. There are controls over space standards and numbers of residents under the Housing Act. The reason for the condition makes reference to Housing Acts requirements. I note the details of the Housing Act requirements set out in a Council Information leaflet submitted with the appeal.
7. Nonetheless, there is reference in the condition reason to providing sufficient space for residents. It is a legitimate planning consideration to determine the number of occupiers in the interests of ensuring adequate space which would in turn provide satisfactory living conditions for residents.
8. It is also clear from the Delegated Business Meeting Report dated week of 21 January 2019 that when considering 18/03858/FUL that the Council was also keen to ensure that the living conditions of neighbouring residential occupiers were protected and that parking on street was controlled. These matters are directly related to the number of residents. The Council is concerned to ensure that if numbers are to be increased that there should be a proper assessment of the effects of allowing additional numbers of residents on neighbours living conditions and on street parking on the highway. Without the condition, there would be no such control.
9. The Council has stated these same reasons in refusing the application. The decision is consistent with the reasoning in the earlier report. These are material planning considerations to which the development plan refers. It is legitimate to impose a condition to control numbers of occupiers based on Croydon Local Plan 2015 policy DM10 which seeks to ensure that the amenity of the occupiers of adjoining buildings is protected, and specifies noise, refuse collection and car parking and their effects on the character of the area as considerations for HMOs. It would also comply with London Plan policy 7.15 which seeks to avoid significant noise impacts.
10. The Council has also referred to the Suburban Design Guide 2019. This is an extensive document and it has not been identified which parts are particularly relevant to the condition, but the thrust of it is to promote high quality design.
11. The appellants say that the accommodation is currently very good quality, rated as exceptional and well managed. I have no reason to conclude otherwise, but this is not necessarily a predictor of how the use will operate in the longer term. I also note that residents are currently mature and there are some tenancy restrictions on activities at the property. Again, these circumstances might change.
12. Given the close proximity of neighbouring properties and the potential for increase in on street parking, and the consequential impact on the character of the area, the condition is justified and complies with the development plan policies. It is necessary, relevant to planning and the development permitted and reasonable in all other respects.

13. For the reasons given above, I conclude that the development would be contrary to the development plan and the Framework and that the appeal should be dismissed.

*Julia Gregory*

Inspector