

Appeal Decision

Site visit made on 21 January 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2020

Appeal Ref: APP/P5870/W/19/3240363

35 Sorrento Road, Sutton SM1 1QU

- 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 Himal Vohora against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2019/00960, dated 4 June 2019, was refused by notice dated 31 July 2019.
 - The development proposed is the change of use of a C3 dwellinghouse into a 9-bedroom Sui Generis HMO for a maximum of between 9 and 11 occupants, including a loft conversion and single storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description used above has been taken from the planning application form, albeit with unnecessary references to a previous unlawful use being removed. At Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form.
3. The evidence before me indicates that the parties disagree with respect to the number of residents that would occupy the building. In this regard, the terms of the application, as originally submitted, indicate that the building would be occupied by no more than 11 people and I have determined the appeal on that basis.

Main Issues

4. The main issues are:
 - The effect of the development on the character and appearance of the existing building and the surrounding area.
 - The effect of the development on the living conditions of the occupiers of nearby dwellings, with particular regard to noise and disturbance.
 - The effect of the development on the living conditions of future occupiers, with particular regard to the ceiling heights within the building.
 - Whether the change of use to a large House in Multiple Occupation (HMO) would lead to an unacceptable loss of family accommodation.

Reasons

Character and Appearance

5. The building is located within a residential area that consists of semi-detached and terraced dwellings that are 2 storey in scale, albeit with several featuring accommodation within the roofspace. The appeal site is located at the junction of Sorrento Road and Pylbrook Road and contains a semi-detached building. To the rear of the site is a railway line and a public footpath. Although there is variety to the appearance of the dwellings in the locality, their scale and general arrangement creates a degree of rhythm and consistency to the residential setting.
6. The physical alterations to the exterior of the building would include the erection of a single storey rear extension that would have an acceptable effect on the character and appearance of the existing building and the surrounding area due to its size, positioning and design. The proposal would also include the addition of a dormer roof extension that would be visible from the footpath at the rear of the site and, in part, from Pylbrook Road.
7. The proposed dormer would be of a scale that would fill the majority of the rear roofscape and add a significant element of bulk to the rear of the dwelling. In this case, the size of the dormer would cause it to dominate the rear of the existing building and have an appearance that would be incongruous within the immediate locality. The bulk and scale of the dormer would, therefore, cause harm to the appearance of the existing building and detract from the character and appearance of the locality. The use of materials that are complimentary to the existing building would do little to reduce the visual effect of the bulk added by the dormer.
8. Other dormer roof extensions exist at properties within the wider locality, but most of those that I could see were either smaller or at the rear of longer terraces of dwellings which leads them to be less dominating of the overall roofscape that they form part of. The presence of other dormers within the vicinity of the site does not, therefore, reduce the effect of the harm that has been identified.
9. Whilst permitted development rights allow for some roof extensions to dwellinghouses, that is not the intended use of the building. Accordingly, the rights would not be able to be utilised to undertake the proposed development and do not provide a realistic fallback position.
10. For the above reasons, the development would have an unacceptable effect on the character and appearance of the existing building and the surrounding area. The proposal would, therefore, be contrary to Policy 28 of the Sutton Local Plan 2016-2031 (SLP) which requires, amongst other things, that development is attractive, is designed to the highest standard and is of a suitable scale and massing.

Living Conditions of the Occupiers of Nearby Dwellings.

11. The site is located within a residential setting, with the arrangement of local roads and the presence of a railway line at the rear of the site causing the amount of through-traffic to be limited. As such, the only activity within the locality appears to be that which arises from the occupation of the dwellings. The submissions of both parties identify that the most recent lawful use of the building was as a dwelling.
12. The proposed HMO would feature 9 bedrooms with some bedrooms being of sufficient size to enable occupation by 2 people. In this regard, the originally submitted application indicated that the building would be occupied by up to 11 people. This would represent an increase in the number of occupiers of the

- building, with the majority living independently. As such, the number of comings and goings and the level of activity at the site would be significantly greater than what would normally be expected of a dwelling in this location.
13. The occupiers of the semi-detached building that is adjacent to the appeal site would therefore be likely to notice the additional activity, as would the residents of other properties within the immediate vicinity of the site to a lesser degree. In the case of the semi-detached property, the close proximity means that any noise and disturbance that arises is likely to be more noticeable than the general activity that is likely to occur within the street and the locality. In this regard, Policy 10 of the SLP requires that HMOs are only created in detached buildings and therefore, as the building is semi-detached, it does not comply with this aspect of the policy.
 14. Even if the building were to be occupied at a rate of 1 person per room as suggested by the appeal submissions, the activity associated with 9 residents at the site would still substantially exceed that which would be expected to result from the use of the building as a dwelling. As such, using a condition to limit the level of occupation to 9 residents would not make the development acceptable in terms of the living conditions of surrounding residents.
 15. The appellant has identified that the building can be converted to a smaller HMO under the terms of permitted development rights. However, that is not the proposal that is the subject of this appeal and, as there is a substantial difference between the development proposed and the provision of a HMO with no more than 6 occupiers, the effect of the development would not be comparable.
 16. The appellant has identified that the future occupiers of the proposed HMO would be vetted and that occupation will be limited to those within certain professions. However, there is no evidence before me to justify reaching a conclusion that employment and lifestyle are connected and, in any event, it would not be possible to secure any occupancy limitation through the imposition of a condition. As such, I afford no weight to this aspect of the appellant's case.
 17. For these reasons, the proposal would have an unacceptable effect on the living conditions of the occupiers of nearby dwellings, with particular regard to noise and disturbance. The development would, therefore, be contrary to Policy 29 of the SLP which states that development will not be supported that adversely affects the amenities of the occupiers of adjoining or nearby properties in respect of, amongst other things, noise and disturbance.

Living Conditions for Future Occupiers

18. Policy 9 of the SLP requires that residential development accords with the internal space standards that are set out in the London Plan. In this regard the main parties have identified that the London Plan (2016) encourages 75% of the floorspace of a building to have a minimum internal ceiling height of 2.5 metres. However, this increase in comparison to the 2.3 metre standard that is contained within the Technical Housing Standards – Nationally Described Space Standard is only encouraged and is not mandatory.
19. As Policy 9 relates to all residential development and the building would be used as the primary living accommodation for its occupiers, I consider that the aim of the policy is consistent with paragraph 127 of the National Planning Policy Framework which encourages the promotion of health and well-being and the provision of a high standard of amenity for residents.
20. The abovementioned standards apply to the building as a whole and not each room individually. However, the nature of the use means that occupiers of the building

will only have access to communal parts of the building and their own rooms. Accordingly, as the two bedrooms at top floor include cooking facilities and en-suites, the occupiers of those rooms are less likely to use the communal areas. Therefore, although they would have access to communal facilities, the primary living accommodation available to the occupiers of the top floor bedrooms would be inadequate.

21. The appellant has suggested that the plans could be amended to address this matter. However, no amended plans were submitted with the appeal and this is not a matter that could be the subject of a condition given the implications that such alterations might have for other elements of the proposed development. I have therefore proceeded on the basis of the submitted plans.
22. I note that the appellant states that a licence would be granted for the conversion, but I am considering this appeal under planning legislation which is a different regime. The licence would not make the conversion acceptable in planning terms.
23. For the reasons given above, the development would have an unacceptable effect on the living conditions of future occupiers, with particular regard to the ceiling heights within the building. Accordingly, the proposal would be contrary to Policy 9 of the SLP which states that residential development will not be supported which does not meet the internal space standards set out in the London Plan.

Loss of Family Accommodation

24. Although the Council's decision refers to the loss of a family dwelling house, the associated Officer Report indicates that the concern relates to the suitability of the site and location for the type of development proposed. No substantive evidence has been provided to demonstrate that using the building for purposes other than family accommodation would be harmful to the supply and mix of housing.
25. In this regard, whilst policy 10 of the SLP states that the loss of housing will be resisted, it also states that the formation of HMOs will be supported subject to defined criteria being met, none of which relate to the loss of family housing. Therefore, the proposal would not represent the unacceptable loss of family housing at this site and, in that respect, would not be contrary to policy 10 of the SLP.

Other Matters

26. The appellant has identified that there are limited opportunities to create HMOs within the locality due to there being few detached buildings. I note the appellant's comments that the proposal would help to meet the Council's stated aim of providing homes of the price, tenure and size that meets the needs of the Borough's residents. In this respect, statistical evidence of demographic trends within London has been provided and it has been suggested that changes to Local Housing Allowance might also increase demand. However, the submissions do not quantify the need for the type of accommodation proposed or clarify the supply that exists.
27. Policy 10 of the SLP requires that the proposal does not cause an overconcentration of HMOs to an extent that the character of the area is affected. The evidence before me does not clarify the presence of other HMOs within the vicinity of the site and, as none were obviously present within the locality, I have no basis to conclude that there would be an overconcentration of HMOs.

28. Although the appellant has suggested that HMOs are often accommodated by key workers and that they are affordable, I have no mechanisms before me to secure these matters. In any event, this would not overcome the harm I have found.
29. The main parties have identified that the building has been used as flats but that its lawful use is as a dwelling. I give minimal weight to the fact that the building has not been used for its lawful use.

Conclusion

30. For the reasons set out above, the proposal would have an unacceptable effect on the character and appearance of the existing building and the surrounding area and the living conditions of future occupiers and the occupiers of nearby dwellings. I therefore conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR