The Planning Inspectorate

Appeal Decision

Site visit made on 26 May 2020

by D.R McCreery MA BA (Hons) MRTPI

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

Decision date: 29 May 2020

Appeal Ref: APP/C5690/W/20/3247531
120 Perry Hill, London SE6 4EY

- 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 Cyril Jones against the decision of the Council of the London Borough of Lewisham.
- The application Ref DC/19/111768, dated 4 April 2019, was refused by notice dated 13 August 2019.
- The development is change of use from C4 to Sui Generis 7 room HMO.

Decision

1. The appeal is dismissed.

Procedural Matter

2. It is indicated that the appeal proposal has commenced and that the property is currently occupied as a 7 room House in Multiple Occupation (HMO). As such, I am considering this appeal retrospectively.

Main Issues

3. The main issues are the effect of the development on the Boroughs stock of larger housing suitable for families and the effects in terms of highways and transportation.

Reasons

4. The main parties indicate that the lawful use of the appeal property is a Class C4 House in Multiple Occupation (HMO) with not more than 6 residents and that a lawful development certificate was issued for this use in 2018. The development provides a 7 room HMO, which is said to not fall within the current lawful use and is classed as a large HMO (Sui Generis use).

5. DM Policy 6 of the Council's Development Management Local Plan provides controls for Sui Generis HMOs. As the development results in the creation of a larger HMO of a different use class to existing, it involves the provision of a new HMO within the meaning of the policy. DM Policy 6 is therefore of direct relevance.

6. The appeal property is located within an area that has a public transport access level (PTAL) of 2 and would not therefore accord with DM Policy 6 1(a) which requires a level of 3 or higher to ensure that proposals provide adequate access to public transport. There is nothing in the evidence to suggest why a lower standard of public transport access is appropriate in this case and the fact that the property has a lawful use as a smaller HMO does not in itself provide sufficient justification.

7. In relation to DM Policy 6.1(c), by virtue of its size, the appeal property is a larger house and I have no substantive evidence to suggest that it is unsuitable for family occupation. While the property has a lawful use as a smaller HMO, it can be changed to a Class C3 dwelling without the need for an application for planning permission.

8. While conversion to a single dwelling may not be the Appellant's current intention, the ability to do so without needing to apply for permission gives a high degree of flexibility that would be restricted if a Sui Generis use was established.

9. DM Policy 3 concerns conversion of single family houses to 2 or more dwellings and, as such, is only of indirect relevance given the lawful use of the appeal property. However, this policy gives some indication as to the importance to the planning of the area of larger housing that is suitable for families.

10. Turning to highway matters, I note the Council's concerns that occupiers of the development may be more reliant on private car use because of inadequate access to public transport. However, I see little of detail in the evidence to substantiate this assumption or justify the use of particular standards based on an assessment of local highway conditions, considering also the lawful use of the property.

11. From my site visit I observed that parking around the appeal site is unrestricted and therefore difficult to control using the planning system. However, without more detailed and specific evidence relating to parking stress I cannot agree with the Council's assumption that the appeal proposal would have a harmful effect in highways terms.

12. Notwithstanding the above, there is little in the evidence to suggest that promotion of sustainable transport choices has been adequately considered, including the provision of secure cycle storage. While I accept that the proposal is modest in scale, and that any such consideration should be proportionate, I find what has been put forward to be insufficient.

13. The appellant has drawn my attention to a number of appeal decisions which consider similar issues to this appeal. Whilst of general relevance in terms of policy application, as none of these decisions are within the immediate locality and each appeal must be considered on its own merits I give them limited weight.

14. For the reasons above, the appeal proposal would have a harmful effect on the Borough's stock of larger housing suitable for families and a harmful effect in terms of highways and transportation.

15. Consequently, I find conflict with policies in the Council's Local Plan, notable DM Policy 6 of the Development Management Local Plan relating to provision of HMOs and Policy 14 of the Core Strategy regarding sustainable transportation. I also find conflict with Policy 6.9 of the London Plan regarding provision of secure, accessible, and convenient cycle parking facilities.

Conclusion

16. The appeal is dismissed.

D.R. McCreery

INSPECTOR