
Appeal Decision

Site visit made on 8 July 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2020

Appeal Ref: APP/L5240/W/20/3245137

51 Warren Road, Croydon CR0 6PF

- 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 Ms X Meng against the decision of the Council of the London Borough of Croydon.
 - The application Ref 19/05274/FUL, dated 6 November 2019, was refused by notice dated 20 December 2019.
 - The development proposed is described as the change of use from C4 Use Class small HMO (6 occupiers) to HMO Sui Generis (8 occupiers)
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit, the appeal building was laid out as a House in Multiple Occupation (HMO) as per the proposed plans I have before me. It contained seven separated and numbered bedrooms, six single and one double occupancy, to house eight occupiers. There was a kitchen and lounge space on the ground floor and a kitchenette on the first floor. Each bedroom had access to its own bathroom with all but two en suite. There was evidence of bedrooms being occupied although only one resident was in the building at the time. Based on what I have seen, I have considered the appeal scheme as being part retrospective.

Main Issues

3. With this in mind, there are three main issues. These are a) the principle of the development, specifically whether it has resulted in the unacceptable loss of a three bedroom dwelling; b) the effect of the development on the living conditions of occupiers; and c) the effect of the development on the character and appearance of the area.

Reasons

Principle of Development

4. The appeal building is a two storey terraced house with rooms in the roof space. The evidence suggests it was most recently in use as a HMO for up to six occupiers (C4 use). The Council have confirmed that this was so as a change of use permitted from a conventional C3 dwelling without the need for

express planning permission. As I have stated above, the building is now laid out as a seven bedroom, eight occupant HMO. The above mentioned Suis Generis use.

5. Policy SP2.7 of the Local Plan¹ explains that the Council will seek to ensure that a choice of homes is available in the borough. Whilst I have seen no detailed evidence pertaining to the current ratio of conventional dwellings to HMOs in the area, there is clearly an evidenced reason for the stance set out by Policy DM1.2 which permits the redevelopment of residential units where it does not result in the net loss of 3 bedroom homes as they were originally built. Or indeed the loss of homes smaller than 130 square metres. This suggests two things to me. One being that smaller dwellings are in short supply and high demand in the borough and two that there is a protection over smaller dwellings that might have been extended from their original three bedroom layout. Taken together, these policies set out a general presumption against the loss of three bedroom, small, family sized dwellings.
6. The evidence suggests that, pre the current works and the permitted change of the dwelling to a small HMO, the appeal building was a three bedroom home. I can therefore draw only one conclusion in regard to this main issue that the development has resulted in the loss of a three bedroom dwelling. It would be suitable for housing a small family and thus such a loss is unacceptable under the terms of the development plan. This brings the development into conflict with the aforementioned policies thereof, the aims of which I have set out.
7. As I have alluded to above and according to the appellant, the building has previously been used as a HMO for up to six occupiers. Be this as it may, the Council have confirmed that this C4 use could operate without the need for express planning permission. Indeed, it could also revert to C3 in similar circumstances. Normally, a change from C3 to C4 is one over which the Council has no control. It is usually allowed under permitted development which accordingly does not have regard to the development plan. This is not true of an application or appeal seeking express planning permission.
8. The appellant also suggests that the license for the operation of the building as an eight occupant HMO is in the process of being granted. Whilst I have not seen a copy of the license it is in any event considered under separately enforceable legislation to planning. My findings are therefore not affected.
9. The sufficiency of the aforementioned policies in regard to this main issue aside, the Council have referred to Policy 3.4 of the London Plan 2016. They state that it supports the retention of residential units originally designed with three or more bedrooms. I cannot see mention of such a stance on my reading of Policy 3.4. It does generally presume against the loss of housing but the inference appears to be loss to other uses. It also explains that the number of vacant units should be reduced by bringing them back into use for residential purposes. With this in mind, as well as the fact that the appeal building would continue to provide housing, I do not see there would be conflict with this policy.

¹ Croydon Local Plan 2018

Living Conditions

10. The crux of the Council's concerns in respect of this main issue is in regard to the outlook from one of the bedrooms contained in the roof space. Specifically, the one in the front section that does not benefit from a dormer window extension. This room has two roof light style windows. This would allow adequate light into the room but would not offer any real outlook other than the sky. For me, this can garner something of an enclosed and oppressive experience in a room, a feeling exacerbated by the fact that it is where an occupier is likely to spend a lot of their time and it having an en suite bathroom without any windows whatsoever.
11. With this in mind, the development has resulted in a poor standard of living conditions for the occupier of that bedroom. Such that it is contrary to the aims of Policies 7.6 of the London Plan 2016 and DM10.6 of the Local Plan. Amongst other things, these policies seek to protect and limit harm to the living conditions of the occupiers of land and buildings.

Character and Appearance

12. The Council's concerns in regard to this main issue relate to the provision of facilities for the storage of refuse and recycling and how, siting it in the front garden, would harm the character and appearance of the area. They set out that no details of dimensions have been provided to demonstrate provision would be sufficient, having regard to the Council's relevant guidance.
13. The front garden to the appeal building is a shallow area of land between the front elevation and a brick wall. Part of the space is taken up by the projection of the ground floor bay window. Whilst small, this area would appear to be sufficient to store the number and size of wheelie bin the Council explain would be necessary for an eight occupant HMO. There would also appear, based on what I saw on site, space to manoeuvre them for collection.
14. I appreciate that obvious storage of refuse receptacles in prominent areas in the street scene is not ideal but on a traditional terraced street with restricted rear access such a method is largely unavoidable. In the case of Warren Road, the front boundary walls are sufficiently high to screen the majority of the bins and I see no reason why additional methods could not be employed to obscure them further. I am also mindful that the majority of other dwellings in the street store wheelie bins on their frontage and generally, taking into account my comments here, they don't significantly detract from what is an otherwise pleasant and structured narrow and traditional layout of back to back terraced housing.
15. For these reasons, I am satisfied that the appeal scheme does not harm the character and appearance of the area. As a consequence, and with regard to this main issue, I do not find there would be conflict with Policies 3.5, 7.4 and 7.6 of the London Plan 2016 and Policies SP4.1, DM10.1 and DM13 of the Local Plan. Amongst other things, these policies seek to ensure that development is of a high quality, suitable for and respectful to its context, it has regard to the form and function of an area, makes a positive contribution to an area and provides for appropriate facilities for refuse storage and collection.
16. The sufficiency of the aforementioned policies aside, I note the Council's reference to Policy 6.3 of the London Plan and DM30 of the Local Plan in regard

to this main issue. However, and on my reading thereof, they seem more concerned with matters of transport capacity and car parking in new development respectively. I have not therefore referred to them since these are not contentious matters in the appeal.

Other Matters

17. The appellant's statement includes a number of photographs of other properties that they have converted to HMOs. With regard to these, and what I saw as part of my site visit, I would not dispute that the work carried out is of a high standard cosmetically. However, this would not make up for the shortcomings of the appeal scheme in regard to the principle of the change of use of the building or its effect on the living conditions of occupiers and how such would result in conflict with the development plan.

Conclusion

18. I have found in favour of the appellant in regard to the effect of the proposed development on the character and appearance of the area, but this is accordingly a lack of harm which, by definition, cannot be used to weigh against it. The principle of the development is unacceptable, and it does not provide acceptable living conditions for occupiers of one of the bedrooms. In both cases this would lead to conflict with the development plan. It is for these reasons that the appeal is dismissed.

John Morrison

INSPECTOR