



Appeal Decision

Site visit made on 15 September 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal Ref: APP/L5240/W/20/3253694
24 Kidderminster Road, Croydon CR0 2UE

- 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 Azeem Dosani against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/00673/FUL, dated 10 February 2020, was refused by notice dated 8 April 2020.
 - The development proposed is the conversion of 6 bedrooms dwelling into 10 rooms HMO (Sui Generis).
-

Decision.

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. 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 which reflects that used by the Council in their decision notice. 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.
3. On visiting the site it was apparent that the building had been adapted in a manner that reflected neither the existing or proposed plans. I have, therefore, proceeded on the basis of the submitted plans rather than the on-site situation.

Main Issues

4. The main issues are the effect of the development on:
 - The living conditions of the occupiers of nearby dwellings with particular regard to the effect of noise and disturbance;
 - The living conditions of future occupiers of the building with particular regard to the light and outlook serving bedroom 2, the ceiling heights within bedroom 10, the access to garden space and the provision of storage for bicycles and waste;
 - The supply of housing.

Reasons

Noise and Disturbance

5. The appeal site is located adjacent to the junction of Kidderminster Road and Farquharson Road which are residential streets featuring buildings of similar scale.

The number of residential properties within the area and the location of the site in the context of the urban area of Croydon indicates that there would be a level of pedestrian and vehicle movements within the vicinity of the site that would prevent the area being considered to be a quiet location. However, I have no evidence before me that suggests that the area is a bustling or noisy environment and, as such, the occupiers of residential properties would reasonably expect to be able to occupy those dwellings without substantial disturbance.

6. The occupiers of a House in Multiple Occupation (HMO) are likely to lead independent lives from one another. Therefore, taking account of the size of the appeal property and the activity generated by the independent lives of the occupiers of ten bedrooms, this would lead to a level of activity that would be substantially greater and more intensive than that which would reasonably be expected to be associated with a dwellinghouse with 6 bedrooms. I have no evidence before me that the level of commotion that would be likely to be caused would be comparable to that which would otherwise occur at the site or within the surrounding area. In this regard, the appellant has identified that there is not an overconcentration of HMOs within the surrounding area with only one other being known of. Therefore, whilst there may be others that are unknown, the appellant's evidence reinforces that the area is not the subject of the more intensive activity that is associated with the occupation of HMOs.
7. In the case of the attached property, the close proximity means that any noise and disturbance that arises is likely to be more noticeable than the activity that would reasonably be expected within the context of the appeal site, to the extent that the use of the building as proposed would be likely to harm the living conditions of the occupiers of the neighbouring building.
8. Whilst the appellant has suggested that 9 residents could occupy the building if it were converted to 3 flats with 3 bedrooms per flat, the evidence before me does not demonstrate that the use of the building in that way has occurred previously. Moreover, whilst I recognise that the appellant is confident that the use of the building in that way could occur, no evidence has been provided to demonstrate that planning permission has been granted to enable the building to be used in that way. As such, this does not represent a fallback position that I afford weight. Moreover, whilst I have no basis to conclude that the occupiers of the proposed development would be more or less likely to act in an anti-social manner than the residents of any other building, this does not alter my assessment of the effect of the additional activity that would occur at the site.
9. The proposal would, therefore, have an unacceptable effect on the living conditions of the occupiers of nearby dwellings with particular regard to the effect of noise and disturbance. Consequently, the development would be contrary to Policy DM10 of The Croydon Local Plan 2018 (The CLP) which states that proposals will be supported that ensure that the amenity of the occupiers of adjoining buildings are protected and that, where a house in multiple occupation is proposed, the effects of noise on the character of the area will also be considered.
10. Whilst the Council has suggested that the proposal would be contrary to the London Plan 2016 (The LP), it has not been indicated which part of The LP the proposal would be contrary to. This does not, however, alter my assessment in relation to the other development plan policy set out above.

Living Conditions for Future Occupiers

11. To the rear of the proposed ten bedroom HMO is a garden area that is enclosed by the existing building, walls and fences to the extent that access is currently only

available from within the building. Whilst the layout of the proposed development would make this garden space convenient for the occupiers of 2 of the ground floor flats, no other resident would have access. The proposed garden area would also host refuse and cycle storage facilities. However, for the same reasons, most occupiers would have restricted access to those facilities. Therefore, based on the submitted plans, the facilities would not be adequately located.

12. The evidence before me indicates that a pedestrian access from the garden on to Farquharson Road previously existed. Even if this were re-instated as has been suggested by both main parties, this access would be dependent on residents walking around the building and through the public domain to reach that access. As such, providing access in that way does not lead me to conclude that the abovementioned facilities would be provided in a sufficiently convenient location. Although I have had regard to another planning permission¹ that enabled a similar arrangement, that permission does not persuade me that the positioning of, and the access to, the abovementioned features should be found acceptable here.
13. Whilst Room 10 has not been built as shown on the submitted second floor (loft) plan and I recognise that the labelling of the head height on that plan is inaccurate, the combination of the floor plan and the section drawing indicate that adequate headroom would be available within a sufficient part of that bedroom to afford future occupiers with suitable living conditions in that respect. Furthermore, as a substantial part of the windows serving Room 2 are at a height that is above the boundary wall, the occupiers of that room would be served by adequate light and outlook.
14. For the reasons given above, although acceptable in some respects, the development would have an unacceptable effect on the living conditions of future residents with particular regard to the access to garden space and the provision of storage for bicycles and waste. The proposal would, therefore, fail to accord with Policies DM10 and DM13 of The CLP which, together, require that development is of a layout that ensures refuse storage facilities are conveniently located and easily accessible by occupants, cycle parking is also conveniently located and residential developments are served by high quality amenity space. The proposal would also be contrary to Policy 3.5 of The LP which requires that housing developments are of the highest quality externally.
15. As Policy DM30 of The CLP requires the provision of cycle parking but does not require it to be conveniently located, the proposal would be able to accord with the requirements of that policy. However, this does not lead me to reach a different conclusion in relation to the other matters set out above.

Family Homes

16. Policy SP2 of The CLP seeks to ensure that a choice of homes is available to meet a need for homes of different sizes, stating that this will be achieved by setting a strategic target for 30% of new homes to have 3 or more bedrooms. Whilst Policy SP2 does not address the change of use of existing dwellings and primarily relates to the provision of new dwellings, the retention of existing dwellings would contribute to the aim of securing a stock of housing and would ensure that the delivery of housing in accordance with the abovementioned policy is not undermined. As such, the change of use of the dwelling at the appeal site would conflict with the overall aim of the abovementioned policy.

¹ 19/02607/FUL

17. However, in order to create a sustainable community that has a choice of housing, Policy DM1 of The CLP states that the Council will permit the redevelopment of residential units where it does not result in the loss of dwellings that originally had 3 bedrooms or measured less than 130 square metres.
18. The council determined that the existing building was originally built as a three bedroom dwelling that had an internal floorspace of less than 130 square metres. However, the evidence before me indicates that the building originally featured 4 bedrooms and had a floorspace of more than 130 square metres, prior to it being extended to become a 6 bedroom dwelling. Accordingly, as neither of the restrictions set out within Policy DM1 would be applicable, the policy indicates that the redevelopment of the residential unit should be permitted. In this regard, although it would no longer be a house suitable for occupation by a family, the use of the building as a HMO would provide shared residential accommodation which, along with other types of housing, the Council's Strategic Housing Market Assessment Update (2019) identifies a need for.
19. Although it has been brought to my attention that the Council has introduced an Article 4 direction that restricts the opportunity to create HMOs, this does not prevent planning permission being granted for such a development. Therefore, whilst the Council has indicated that the intention of the Article 4 direction is to retain a stock of dwellings, Policy DM1 only addresses dwellings of a particular size and capacity when first built. As such, the Article 4 direction does not alter my assessment of the acceptability of the development.
20. Therefore, whilst the proposal would result in the change of use of a dwelling to a HMO that would undermine the Council's strategic objective of delivering homes with three or more bedrooms, Policy DM1 of The CLP states that this should be permitted and, in this case, I afford that policy most weight. As such, the conversion of the former four bedroom dwelling to a HMO would have an acceptable effect on the supply of housing.

Planning Balance and Conclusion.

21. The proposal would be acceptable in some respects and the appellant has identified that the proposal would meet an identified need for shared accommodation that is supported by the Council's Strategic Housing Market Assessment Update (2019). However, the living conditions of future occupiers of the building would be unacceptable in terms of the access to garden space, refuse storage and cycle parking and the development would cause unacceptable harm to the living conditions of occupiers of the neighbouring building. Therefore, the proposal would be contrary to the development plan when taken as a whole and other considerations do not lead me to reach a decision that is not in accordance with the development plan.
22. Consequently, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR