

Appeal Decision

Site visit made on 4 December 2020

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

An Inspector appointed by the Secretary of State

Decision Date: 06 January 2021

Appeal Ref: APP/C5690/W/20/3245700

160 Drakefell Road London SE4 2DS

- 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 Wilson against the decision of the London Borough of Lewisham.
 - The application, ref. DC/19/112702, dated 1 May 2019, was refused by notice dated 29 July 2019.
 - The development proposed is the conversion of a small HMO (C4) into Large HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Reason for refusal No.2 on the Council's Decision Notice refers to Bedroom 2 on the Lower Ground Floor as having inappropriate living conditions by way of ventilation and limited outlook. The Council Officer Report when discussing living conditions for the appeal site does not refer to Bedroom 2, but makes reference to Bedroom 1 on the Ground Floor as having unacceptable living conditions. I agree with the applicant that the Officer Report appears to have been made in error and that the assessment of living conditions is applicable to proposed Bedroom 2 on the Lower Ground Floor level as per the Decision Notice. I shall make my decision on this basis.

Main issues

3. The main issues are:
 - The effect of the development on the mix and balance of housing in the area;
 - The effect of the development on the living conditions of Bedroom 2, with particular regard to ventilation and outlook; and
 - Whether there is an adequate provision of cycle storage.

Reasons

Housing Mix and Balance

4. The appeal site is a two storey mid terraced building with partly exposed basement level from the front of the property. The building has functioned as a House of Multiple Occupation (HMO) for a number of years providing 6 rooms of habitable accommodation.
5. According to the accompanying text to Policy DM6 of the Lewisham Development Management Local Plan 2014 (DMLP), the Council have undertaken an assessment of their population and housing needs and that they seek to retain existing family housing stock. The failure to do so would mean that the Council will fail to achieve housing targets and the strategic principles and policies as outlined in the Lewisham Core Strategy (CS) Strategic Objective 3 and CS Policy 1.
6. Policy DM5 of the DMLP presents criterion on the conversion of dwellings to a HMO. Such criteria states that (a) the proposed HMO must be located with a public transport accessibility Level (PTAL) of 3 or higher; (b) does not give rise to any significant amenity impacts on the surrounding neighbourhood; (c) does not result in the loss of an existing larger house than is suitable for family occupation; and (d) satisfies the housing space standards.
7. The proposal would meet Criteria a, b and d, with the main dispute between the parties as to whether the proposal meets criteria c regarding the loss of a building that is suitable for family occupation. I acknowledge evidence submitted by the applicant which includes letters from the Council's Property Licensing team of a License of Houses in Multiple Occupation (HMO) which has been given since 2013. There are also comments relating to the building being let out as single rooms for approximately 20 years and it is implied that the building is not part of the housing stock as it has not been counted in the Council's evidence base¹ which was utilised to designate Article 4 Directions preventing the change of dwellings to HMOs. The presence of a HMO license does not mean that a building is no longer suitable as a dwelling or should be disregarded a family dwelling when considered against policies of the development plan. Whilst there may not have been an Article 4 direction placed upon this particular dwelling, this decision does not indicate that the loss of family dwellings is any less important or that this would place less emphasis on Policy DM6 of the DMLP in this circumstance.
8. A letter² has been submitted from the managing agents of the property which states that the '*Telegraph Hill area spans buying and letting a number of properties, specifically houses in Multiple Occupation as well as large homes for families.*' The letter goes on to state that whilst the appeal site would be 'seemingly appropriate for families given its size,' then discounts the appeal dwelling due to its location along a busy road and its proximity to the builder's merchants, as well as a railway, as noted by the applicant. Whilst these issues may make the building less desirable from a sales perspective, this does not necessarily mean that the building would not be suitable for family occupation. As seen on my site visit, there are a number

¹ Lewisham HMO Review and Evidence Paper Update 2018

² Letter from Gary Cole, Lettings Directory, Peter James Estates Dated 20 January 2020

of dwellings along this road operating as family dwellings and which are closer to the builder's merchants, and have the same relationship with the railway and road and are functioning appropriately.

9. The existing plans show that there are two kitchens in the property which would not be typically expected for a family dwelling, however the existing layout and floorplan of the building has not been altered significantly. The building could function as a family dwelling with minimum intervention. Whilst there may be further improved fire systems as a result of the building needing to meet the fire regulations for HMO's this also does not render the building unsuitable as a family dwelling.
10. The applicant has submitted planning applications³ where planning consent has been granted for the conversion of a dwelling to a large HMO in that in the applicant's opinion these examples provide transparency in that this application should have been determined the same way. I also note that the Council has referred to a number of appeal decisions⁴ where applications involving a loss of family dwellings have been dismissed. Whilst I do not believe it is appropriate to judge why some of the examples were approved and some were refused, what these decisions do illustrate is that each application needs to be considered on its own merits and taking into account the individual circumstances of the application.
11. It is evident that the DM Policy 6 of the DMLP places a clear emphasis on the retention of family housing which I give significant weight to. I acknowledge comments that even if the appeal should fail that this would not result in the site being reverted to a dwelling. However, whilst the property is currently in use as a Class C4 HMO and may remain so, this can be changed to a Class C3 use without the need for planning consent which gives a significant degree of flexibility as to its future use. This flexibility would not be present as a result of the proposal which would establish a Sui Generis HMO in a dwelling that is appropriate for use as a single family home.
12. Consequently, in conclusion of this matter, I find that the loss of a family dwellinghouse would result in significant detriment to the housing mix which would be contrary to DM Policy 6 of the DMLP which seeks to maintain a mix of housing tenures, and amongst other criterion, a preference for retention of family housing.
13. The Council have indicated in Reason for Refusal No2 that the proposed scheme would fail Policy DM3 of the DMLP. This policy relates to the conversion of a dwelling into flats. This policy is not relevant to the consideration of this scheme which does not involve the conversion to flats.

Living Conditions

14. The Council's concerns in respect of this main issue is that the use of Bedroom 2 on the lower ground floor relate to issues revolving around outlook and ventilation. The proposed Bedroom 2 would be at lower ground

³ Lewisham Council Refs: DC/19/111898 76 Albacore Crescent; DC/18/109542 61 Lewisham Way; DC/18/107177 25 New Cross Road; DC/18/107350 84 Erlanger Road, DC/17/103913 117 Courthill Road, SE13 6DW; DC/17/103424 1 Troutbeck Road.

⁴ Appeal Refs: APP/C5690/W/17/3185456, 36 Beckenham Hill Road; APP/C5690/W/19/3226647, 113 Bramdean Crescent.

level, however due to the topography of the site, the bedroom window would be at the ground level of the rear of the dwelling. Whilst being single aspect, the room would not be sub-terranean and whilst there is no daylight or sunlight assessment submitted with the appeal documents, to me, the scheme would appear to have adequate levels of outlook and ventilation provided by the rear window to this room.

15. With the above in mind, I conclude on this matter that the development would not be detrimental to the living conditions of the proposed Bedroom 2 by reason of outlook or ventilation. It follows therefore that the scheme would be compliant with SM Policy 32 of the DMLP (which seeks that new development provides a satisfactory level of privacy and outlook); Policy 3.5 (Quality and design of housing developments) of the London Plan 2016, and Paragraph 127 of the National Planning Policy Framework (the Framework).

Cycle provision

16. A total of four cycle parking spaces are proposed to be provided within the rear garden of the property. The cycle parking would be accessed from the rear garden through communal areas to the hallway and up a couple of steps to outside the front of the property. CS Policy 14 and Policy 6.4 of the London Plan seeks that cycle provision is suitable, convenient and accessible for new developments. Whilst the cycle storage is not located to the front, the storage is provided at level access to the front door of the property, meaning that occupants would not need to carry their bicycle up and down a large flight of steps and would be a direct access from the front to the rear of the dwelling via communal areas. Given the circumstances on the site, the proposed layout would be generally appropriate for the storage and operation of cycle parking for the proposed occupants.
17. In conclusion on this matter, the proposed bicycle storage would be suitable and comply with CS Policy 14 and Policy 6.4 of the London Plan, both of which seek to provide suitable, convenient and accessible cycle storage for new developments

Conclusions

18. I have found in the appellant's favour with regards to main issues that the site would have the ability to provide appropriate cycle facilities and that the proposal would not result in unacceptable living conditions. However, this is insufficient to outweigh the loss of a family dwelling. The proposal would therefore be contrary to the development plan when considered as a whole.
19. For the reasons given above, I conclude that the appeal be dismissed.

J Somers

INSPECTOR