



Appeal Decision

Site visit made on 20 May 2021

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021.

Appeal Ref: APP/L5240/W/20/3263983

14 Penshurst Road, Thornton Heath CR7 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Israr Shah against the decision of the London Borough of Croydon
 - The application Ref 20/05039/FUL, dated 30 September 2020.
 - The development proposed is the change of use of existing 3 bed house to a 5 bed HMO.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal, a new London Plan (2021) has been adopted and policies 3.14 and 7.6 of the previous London Plan (2016), referred to by the Council, now carry no weight. The Council have not advised if any policies in the new London Plan are relevant to this appeal, and so the only development plan policies I have had regard to are those in the Croydon Local Plan (Local Plan).

Main Issues

3. The main issues are: -
 - whether the proposal would result in the unacceptable loss of a 3 bedroom family home;
 - the effect on the living conditions of the occupiers of the development; and
 - whether development provides for satisfactory refuse storage.

Reasons

4. 14 Penshurst Road is an end of terrace property located in a residential area of similar properties. Third parties indicate that these are occupied as family homes and from my site visit there were no obvious signs of properties in multiple occupation.
5. An Article 4 Direction covering the whole of the Borough came into force on the 28 January 2020, the effect of which was to remove permitted development rights for the change from Class C3 (dwellinghouse) to Class C4 (a small HMO).

It was introduced to address concerns relating to the loss of small family sized houses, for which there is a need, and the escalation of HMOs in some areas.

6. Local Plan policy DM1 promotes housing choice for sustainable communities with DM1.2 indicating that the Council will permit the redevelopment of residential units where it does not result in the net loss of 3 bedroom homes or homes smaller than 130sqm. The appeal property falls within both these restrictions. The appellant has provided no evidence to justify the loss or need for the HMO and therefore I conclude that proposal would result in an unacceptable loss of a 3 bedroom home contrary to policy DM1.2 of the Local Plan.

Living Conditions

7. The Council indicate the proposal would result in a poor standard of accommodation as 'room 2' would be below the minimum size of 10sqm. From my site visit I saw that proposed 'room 5' would be the smallest - it is noted that there are inaccuracies with the marked dimensions on the plans. Notwithstanding this, I understand that the minimum room size relates to the Council's HMO standards in relation to the Housing Act and HMO licencing requirements. There are no details of these standards before me, and in any event, this is a separate requirement to planning. I have not been directed to any planning policy or guidance setting out room sizes for HMOs and all of the rooms, other than room 5, are as per the existing house layout. The only relevant requirement under Local Plan policy DM10.6 is for proposals to provide adequate sunlight and daylight to potential future occupants which would be achieved as all rooms are served by good sized windows. Therefore, on this issue I find no direct conflict with the development plan.

Refuse Storage

8. On site I observed that the existing property and most neighbouring properties keep their bins in the front garden area. Additionally, being end of terrace this property also has an accessible rear garden. I accept, depending on the occupancy, that the HMO could have different refuse requirements to the existing family house, however, there is no evidence before me which demonstrates that the appropriate provisions could not be accommodated on site. As such, whilst no details form part of the application the requirements could be secured via conditions and therefore, I find that the proposal would in general accord with Local Plan policy DM13 requiring the integration of refuse and recycling, and design policy DM10.

Other Matters

9. The appellant has raised concerns regarding the lack of engagement from the Council and indicates that they are willing to reduce the proposal to a 4 bed, (rather than a 5 bed) HMO. As set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) a C4 use is defined as the *use of a dwellinghouse by not more than six residents as a "house in multiple occupation"*. Thereby the change would not alter the permission being sought and occupancy levels would be subject to the Council's HMO standards which is a separate matter. In any event, the reduced occupancy would not address the main issue of the conflict with policy DM1.2 and therefore does not alter my decision.

Conclusion

10. Having found that the proposal would result in the unacceptable loss of a 3 bed family home my findings on the other issues do not outweigh the conflict with policy DM1.2. As such, the change of use to an HMO is contrary to the development plan when read as a whole, and in this case, there are no material considerations of sufficient weight to indicate that the appeal should be determined other than in accordance with the development plan.
11. For the reasons set out above the appeal is dismissed.

G Ellis

INSPECTOR