



Appeal Decision

Site visit made on 18 June 2021

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2021.

Appeal Ref: APP/C5690/W/20/3261192

203 Shroffold Road, Bromley, BR1 5JG

- 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 Pedro Duarte against the decision of the London Borough of Lewisham Council.
 - The application Ref DC/20/117347, dated 30 June 2020, was refused by notice dated 21 August 2020.
 - The development proposed is change of use from C4 to Sui Genaris.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since Lewisham Council's (the Council) refusal of the application Ref DC/20/117347 the Mayor of London adopted a new London Plan and the Government published a revised National Planning Policy Framework. In line with Planning Practice Guidance, my consideration of the issues of this appeal has, therefore, been on the basis of the National Planning Policy Framework (2021) (the Framework), the Lewisham Core Strategy (2011) (the CS), the Lewisham Development Management Local Plan (2014) (the DMLP) and the London Plan 2021 (the London Plan). Neither the appellant nor the Council have indicated that this is prejudicial to their cases.

Main Issue(s)

3. The main issues are:
 - Whether the development results in an appropriate housing mix, with reference to the loss of a house suitable for family occupation.
 - Whether the development provides satisfactory living conditions for the occupiers with reference to room sizes; and
 - The effect of the development upon the living conditions of nearby occupiers with reference to noise disturbance.

Reasons

Appropriate Housing Mix

4. The appeal property is situated on the western side of Shroffold Road, which appears from my site visit to be a quiet road with relatively few passing vehicles. The area is residential and is made up of similar properties, which appear to have been developed comprehensively as a post war housing estate. The appeal property comprises a two-storey end-of-terrace dwelling, previously extended at roof level and at ground level by a single storey side extension.
5. According to Spatial Policy 5 of the CS, the appeal property is in an area classified as an area of stability and managed change. Although currently in C4 use and not particularly spacious internally or with any significant amount of garden space, I find the property, very much like the similar neighbouring properties, is adequately suited for use as a large family home. A use that could be implemented without requiring planning permission to change from the current C4 use to a C3 use as a single dwelling house. This flexibility would, therefore, be restricted as a result of the proposal, that would result in establishing a Sui Genaris larger HMO use in a property that is suitable for a single larger family dwelling.
6. Part 1(c) of the policy DM Policy 6 of the DMLP seeks to provide controls for HMOs which would fall within Sui Generis Class and states that new HMOs will be considered where they do not result in the loss of existing larger housing suitable for family accommodation.
7. Whilst the appeal property appears to have been in C4 use for 12 years, the loss of an existing larger house suitable for family occupation could be regarded as having already occurred. This does not however restrict me from considering the development as the provision of a new larger HMO in Sui Genaris Use.
8. The appellant points out that if this appeal is dismissed, the property will still function as a 6-bedroom HMO in Class C4 and will thus still not constitute a large family dwelling. However, there is nothing before me to suggest that the property could not be readily converted to a house suitable for family accommodation.
9. Notwithstanding that the appeal property is currently established in C4 use, I note that it falls within an area made the subject of an evidence based Article 4 direction regarding the change of use of dwellings from C3 use to C4. This requires that planning permission is granted before such a change is made, due to a substantial increase in HMOs in the wider area of strong suburban character, but with high levels of deprivation and low or marginal PTAL ratings. In addition, there is little substantive evidence before me to demonstrate that there is a shortage of large HMOs in the area.
10. For these reasons, I find the proposed development represents the loss of housing suitable for larger family accommodation and conflicts with DM Policy 6 of the DMLP, policy in respect of the loss of larger housing suitable for family accommodation.

Standard of Accommodation

11. The material submitted by the appellant for the purpose of this appeal indicates 10 bedrooms, but also indicates that the proposal is for a mix of single and double bedrooms, whilst also stating that the proposal is for housing for 10 individuals. The Council made their decision on the basis of the proposal being for 10 individuals in 10 single bedrooms, and the appellant has raised no concerns to this approach. I have therefore determined this appeal on the same basis and have assessed the proposal as being for 10 single bedrooms for 10 separate individuals.
12. The proposed development provides limited communal space, comprising a combined kitchen and dining area, but with no separate living area or significant storage areas. The communal facilities that reasonably meet normal daily needs are, therefore, not being provided for the number of residents of a 10 person larger HMO.
13. Based on the appellants floorspace figures, 6 of the 10 bedrooms are of limited size. The appellant has argued that these bedrooms conform to the minimum standard adopted by the council of 6.5 sqm in its licencing regime for HMOs for the purposes of the Housing Act, which is intended to ensure the health and safety of occupiers.
14. However, the proposal for the creation of a Sui Genaris larger HMO from a C4 HMO constitutes development, therefore, Policy D6 of the London plan that sets out housing quality and standards applies. This sets out that a 1 bedspace single bedroom must have a floor area of at least 7.5 sqm. and be at least 2.15m wide. The 6 bedrooms with limited space are below the 7.5sqm required by this policy.
15. I conclude that, when this failure to meet the required bedroom size standards is considered alongside the limited communal facilities, the property does not meet the personal and communal day to day needs of 10 people occupying a larger HMO.
16. The proposal fails to provide an acceptable standard of accommodation for larger HMO Sui Genaris use. This results in harm to the living conditions of the occupiers of the property, contrary to Policy 15 of the CS, DM Policy 6 and 32 of the DMLP, Policy D6 of the London Plan and paragraph 130 of the Framework that, amongst other matters, collectively seek to ensure appropriate living conditions of occupants of residential properties, including HMOs.

Living Conditions of Neighbours

17. The change of use from a 6 bedroom C4 to a 10 bedroom Sui Genaris HMO is a material intensification of the use of the property. This is particularly relevant to occupiers of properties that very closely adjoin the site. The additional comings and goings and general increased activity is likely to lead to additional adverse noise and disturbance, particularly to the occupiers of the neighbouring properties at 205 and 201 Shroffold Road, the latter of which has a front door very close to and fronting on to the front door of the appeal property.

18. The development does not, therefore, accord with Policy 15 of the CS, DM Policy 32 of the DMLP, Policy D3 of the London Plan and paragraph 130 of the Framework which seek, amongst other matters, to ensure that developments protect neighbour amenity and result in no loss in amenity.

Other Matters

19. The appellant has drawn my attention to a number of planning approvals, including by appeal, for larger HMO developments in the Council area. Limited material for which has been provided by the applicant and have not been further commented on by the Council, limiting my ability to consider comparability with and relevance to the proposal. As the developments referred to would have been considered on their own merits, I have, therefore, only given little weight to these in my considerations.

Conclusion

20. For the reasons given above, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR