



Appeal Decision

Site visit made on 26 January 2022

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

an Inspector appointed by the Secretary of State

Decision date: 3RD March 2022

Appeal Ref: APP/E5330/W/21/3283606

35 Greenvale Road, Eltham SE9 1PB

- 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 Pengfei Xiao against the decision of the Royal Borough of Greenwich Council.
 - The application Ref 21/1734/F, dated 11 May 2021, was refused by notice dated 13 July 2021.
 - The development proposed is the retrospective change of use from C3 (dwellinghouses) to C4 (small houses in multiple occupation)
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Decision

1. The appeal is allowed and planning permission is granted for retrospective change of use from C3 (dwellinghouses) to C4 (small houses in multiple occupation) at 35 Greenvale Road, Eltham SE9 1PB in accordance with the terms of the application, Ref 21/1734/F, dated 11 May 2021, and the plans submitted with it, subject to the following condition:
 - 1) No more than 5 persons shall be resident at the property at any one time.

Procedural Matters

2. Although the application was for a change of use from C3 (dwellinghouses) to C4 (small houses in multiple occupation) (HMO), due to the Royal Borough of Greenwich Council's (the Council) assessment of the potential occupation of the 3 larger rooms by 2 people the council determined the application as a retrospective change of use from a dwelling house (Use Class C3) to a 5 bedroom HMO (Sui Generis Use Class) and used this description in their decision notice. I have however used the description of development as applied for, but as this would be retrospective, I have also included this in the description
3. Since the commencement of this appeal, it is noted that the Council has issued a short licence under the Housing Act 2004 for use of the appeal property as a 5 Bedroom, 5 Person HMO. It is further noted that this has no effect on my assessment of the issues of this appeal.

Main Issue

4. The main issue is whether the development provides satisfactory living conditions for occupiers

Reasons

5. The appeal property appears to be a late 19th Century end of terrace house with a hard paved front garden providing two off-street parking spaces. It is in a residential area made of similar properties.
6. The development is a change of use from dwelling house (C3 Use) to a small HMO (C4 Use). This is sought retrospectively, and it appears from the information before me that this use started in September 2019. Although it is noted that this forms part of a planning enforcement case, I have determined the appeal on its own merits, which is a fundamental aspect of the planning system.
7. Proposals for the change of use from dwelling house (C3 Use) to a small HMO (C4 Use) in the Council area are subject to an Article 4 direction under the General Permitted Development Order (as amended) (the GPDO) that came in to force in September 2014. Planning Permission is therefore required where this would normally be subject to permitted development rights under the GPDO.
8. The appeal property has 5 bedrooms and is otherwise laid out to accommodate 5 persons. The Council have however assessed the appeal property as being capable of occupation by 8 people, having determined that 3 of the bedrooms could accommodate 2 people rather than 1. This would mean that the use of the appeal property would fall into the larger HMO category and would, therefore, fall into the Sui Generis use class. However, this level of occupation would mean that the standard of accommodation would not be suitable, due to the lack of a WC and wash hand basin in a room separate to bath or shower rooms and the limited size of the kitchen when assessed against the requirements set out in the Royal Borough of Greenwich Standards for Houses in Multiple Occupation (April 2017).
9. From my site visit it was apparent that although it may be possible to utilise 3 of the larger bedrooms to accommodate 2 persons, the room sizes were not particularly generous, and this is not the proposal before me. As a 5 bedroom 5 person HMO, the appeal property would be of a reasonable standard, although not high quality in terms of the standard and condition of accommodation. I do not find that there is any requirement for single occupancy bedrooms to be small, but rather that better quality accommodation in HMO's is facilitated by having good sized private as well as shared spaces.
10. For this reason, I find that the use of the appeal property as a small HMO (C4 Use) for 5 persons would accord with Policy H5 of the Royal Greenwich Local Plan (2014) and Policy D6 of the London Plan (2021) which seek to ensure that the development meet the required housing quality and standards. The proposal would further accord with Policies H9 and H10 of the London Plan (2021), which seek to ensure that the role of good quality houses in multiple occupation is taken into account in meeting local and strategic housing needs and achieving a suitable housing size mix.
11. The appellant has further suggested that the residential occupation of the property could be limited to 5 people through the application of a suitable condition. Having regard to the requirements for conditions as set out in

Paragraphs 56 and 57 of the National Planning Policy Framework (2021), I find that occupancy controls are a well-established principle and are enforceable, and it is reasonable for such a condition to be attached.

Other Matters

12. Concerns have been raised by interested parties with regard to the effect of the proposal on the living conditions of neighbouring residential occupiers. However, the council have not provided any formal material relating to any previous or existing issues that they are aware of, that would lead me to conclude that they would persist or be amplified by allowing the change of use.
13. Concerns have also been raised by other interested parties with regard to the required number of bins, cycling parking and parking at the front of the property. From my site visit it was evident that the bins required for an HMO in C4 use with 5 occupiers in 5 bedrooms was already being provided at the property and that no further increase would result from allowing the appeal. The appellant has indicated that cycle parking will be at the secure rear of the property that is accessed from the gated sideways. The existing 2 parking spaces more than meets the required parking provision and would be unaffected.
14. Other interested parties have raised concerns with regard to the upkeep and condition of the appeal property, however, from my site visit it was evident that the property is in a reasonable state of repair and upkeep. There is nothing before me to suggest that this should not remain the case.
15. The documents submitted for this appeal contain a significant number of comments and observations of a personal and often emotionally charged nature, however, I confirm I have determined this appeal on its planning merits only.

Conditions

16. To ensure that the provision of the required standard of accommodation is maintained with regard to the number of occupiers, I have attached a condition limiting the residents of the property at any one time to 5.

Conclusion

17. For the above reasons and with regard to all other issues raised, the appeal is allowed.

Victor Callister

INSPECTOR