



Appeal Decision

Site visit made on 5 April 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal Ref: APP/C5690/W/21/3290015

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 Council of the London Borough of Lewisham.
 - The application Ref DC/21/121697, dated 7 May 2021, was refused by notice dated 2 July 2021.
 - The development proposed was originally described as the change of use from C3 dwelling to larger 7 bedroom HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the change of use from a small house in multiple occupation (Use Class C4) to a 7 bedroom house in multiple occupation (HMO) (Sui Generis). The Council dealt with the proposal on this basis and so shall I.
3. The existing floor plans submitted with the planning application show three bedrooms on the ground floor, four bedrooms on the first floor and one bedroom in the roof space. As I observed during the time of my site visit, only two bedrooms exist on the first floor and on the ground floor, one of the bedrooms was set out as a living space. Therefore, the current number of bedrooms is five. This is consistent with the Council's approach in the determination of the application, and I have dealt with the appeal proposal on this basis.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the supply of family housing; and
 - whether the proposed development would make acceptable provision for cycle storage.

Reasons

Supply of family housing

5. The appeal site comprises an end-of-terrace property situated in a residential street of similarly sized properties. The property is laid out over three floors as a small House in Multiple Occupation (HMO). The size and layout of the property, with access to a rear garden in an established residential area, means that it would be suitable for larger family housing.
6. Whilst the property is currently in use as a small HMO (Use Class C4), the conversion of the property back to a single house (Use Class C3) would be possible under permitted development rights, should any owner wish to do so. The development proposed seeks permission to convert the property into a large HMO (a property for occupation by 6 or more unrelated persons). This falls under the *sui generis* use class. Such a use does not allow, through permitted development rights, the ability to revert to Use Class C3 to provide family accommodation.
7. As such, the property would no longer be available for occupation by a larger family, contrary to the objectives of DM Policy 6 of the Local Plan. This policy resists the provision of new HMOs where they result in the loss of existing larger housing suitable for family occupation. Whilst the appellant contends that this policy is not relevant as the property is already in use as a small HMO, there is a clear difference between a small and large HMO and their formal use classifications, as reasoned above.
8. The provision of good quality, mixed and affordable housing is important within the Borough and across London, and I acknowledge that HMO accommodation in particular provides affordable accommodation for tenants whose alternative housing choices may be limited. Nevertheless, this does not outweigh that the proposed development would be unsuitable in this location and there is no clear evidence before me to confirm that the proposed need for an HMO could not be met elsewhere within the Borough.
9. The appellant sets out that there is no demand for a six-bedroom family house in this location and that there are more suitable options in the surrounding area for families. They also consider that it would be difficult to physically convert the property back to single family use and note that the length of time the property has been in use as a small HMO (12 years) means it should not be deemed to contribute to the Borough's existing family housing stock.
10. However, I have no substantive evidence before me to support these findings, whereas the objectives of DM Policy 6 are clearly set out. I acknowledge the appellant's reference in respect of single person accommodation in the Borough, but this does not reflect or provide any evidence of the lack of demand for family accommodation. The appeal property is not an unusual layout for a family home, and the proposed ground floor bedrooms could just as easily be used as conventional living space, or other ancillary space. Neither do I consider that the site to be underoccupied relative to other properties in the wider area, which are used as family homes.
11. My attention has been drawn to several other planning permissions elsewhere within the Borough, as well as an appeal decision¹. These relate to the

¹ APP/C5690/W/17/3192275

conversion of properties to large HMOs. I do not have the precise details of these cases. However, they would appear to be subject to a different planning and geographical context and I do not consider they are directly comparable to the appeal scheme before me.

12. The reference to there being limited demand for larger family homes within these schemes is not a position that is automatically applied to the appeal site, as I have reasoned above in respect of the number of bedrooms. Moreover, the length of time the property has been used as a small HMO has had limited bearing on my decision. I have assessed the proposal on the information before me and based on what I observed at the site.
13. For the above reasons, I conclude the proposed development would result in the loss of a family sized dwelling which would unacceptably harm the supply of family homes in the Borough. It would therefore be contrary to the relevant provisions of Core Strategy Policy 1 (2011), DM Policy 3 and DM Policy 6 of the Development Management Local Plan (2014) and Policy H4 of the London Plan (2021). Together, the policies seek to ensure that an adequate supply and type of homes are provided for and avoid the loss of existing larger housing suitable for family occupation. This is consistent with the objectives of the housing supply policies of the National Planning Policy Framework (2021).

Cycle Storage

14. The proposed development illustrates the provision of cycle parking for 4 bicycles to the front of the property. This would be secure and covered. However, the spaces would be cramped, and the position of spaces is such that bicycles would not be readily accessible, due to the limited access to the rear garden from the front of the appeal site.
15. Moreover, the number of spaces falls short of the 7 cycle spaces that are required by London Plan standards. The Council interprets the London Plan requirements as requiring 1 cycle parking space per individual bedroom, therefore totalling 7 spaces. This is a reasonable position as each bedroom could accommodate an unrelated individual.
16. The appellant contends that the proposed development should not be regarded as development, and that it would be difficult to accommodate sufficient cycle parking storage given the nature of the site. Although space is clearly limited, I have no substantive evidence before me to justify that no further parking could be provided. The reference to the property not being step-free is noted however this does not justify the under provision of cycle storage.
17. For these reasons, I conclude that the proposed development would not make an acceptable provision for cycle storage, contrary to the relevant provisions of Policy T5 of the London Plan (2021) and Policy 14 of the Core Strategy (2011), which seek to ensure adequate provision of cycle storage is provided in development.

Other Matters

18. I note interested parties have raised concerns regarding the impact on living conditions, including noise. Such matters are not in dispute between the main parties, and I agree that the proposed development would unlikely increase any such issues. I also acknowledge that the site is positioned in an area with moderate public transport accessibility, as required by policy for new HMOs,

and that the standard of accommodation would generally be acceptable. However, these matters do not outweigh the harm identified in respect of the loss of family housing. The unauthorised use of the neighbouring plot for access is a private matter.

19. The appellant contends that an Article 4 Direction which removes permitted development rights for the conversion of dwellings from Use Class C3 to small HMOs (Use Class C4) does not apply here. From the evidence before me, the Article 4 Direction would apply in this part of the Borough and is evidence-based. Nonetheless, planning permission is required, in any case, to convert the property into a large HMO.
20. The appellant contends that the proposed development represents suitable development by reason of its accessible location and optimisation of the site. Whilst I acknowledge that there may be some economic advantages to additional residents living in the Borough in terms of local spend in this reasonably accessible location, I do not consider these limited benefits would outweigh the harm identified above.
21. In coming to my conclusion, I have had regard to the previous appeal² at the site. They are comparable in respect of the main issue, and I have no reason to disagree with the Inspector's findings in relation to the loss of family housing.

Conclusion

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A Price

INSPECTOR

² APP/C5690/W/20/3261192