



Appeal Decision

Site visit made on 21 February 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/L5240/W/21/3281888

3 Grenaby Avenue, Croydon CR0 2EG

- 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 David Akibu against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/02894/FUL, dated 28 May 2021, was refused by notice dated 27 July 2021.
 - The development proposed is a change of use from C3 to C4 6-unit HMO with rear dormer loft conversion.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the banner heading above is taken from the planning application form, although I have removed the reference to the rear dormer loft conversion element of the scheme having permission. Nevertheless, that element of the proposed development has already been approved by the grant of a Lawful Development Certificate ("LDC") in May 2021¹, and I have therefore confined my consideration of this appeal to the matters disputed between the appellant and the Council, as identified under the "Main Issues" heading below.

Main Issues

3. The main issues are:
 - The effect of the proposed change of use on the supply of family housing; and
 - Whether or not the proposed development would provide acceptable living conditions for future occupiers, with particular regard to the effect of the proposed arrangements for the storage of bins.

¹ LPA Reference: 21/02131/LP

Reasons

Family housing

4. The appeal property is a two-storey, mid-terrace house, on a cul-de-sac street a short way to the north of Croydon town centre. It has a very shallow front forecourt garden (described by the appellant as a patio), and a longer rear garden. There are three bedrooms within the property, although at around approximately 2.0m by 1.9m the third bedroom is small; the works already permitted by the May 2021 LDC would allow the creation of two additional bedrooms at second floor level. The appellant now seeks planning permission to convert the enlarged property into a 6-unit House in Multiple Occupation ("HMO"); this would have two single bedrooms on each floor, a shared kitchen on each of the ground floor and first floor, and shared WCs and/or shower rooms on all three floors. An Article 4 Direction introduced in January 2020 has removed permitted development rights for such changes of use in the borough.
5. The Council's officer report referred to a particular need for affordable housing in the borough, identified in the Council's most recent Strategic Housing Market Assessment ("SHMA"). Although I was not provided with a copy of that document, it informed Policy SP2 of the 2018 Croydon Local Plan ("the CLP"), which among other things seeks (at SP2.7) to ensure that a choice of housing is available to address the borough's needs for homes of different sizes, and sets a target of 30% of all new homes having three or more bedrooms. The appellant, on the other hand, drew my attention to the 2021 London Plan, which states that HMOs are "an important part of London's housing offer, reducing pressure on other elements of the housing stock".
6. The appellant maintains that, given the small size of the appeal property's third bedroom, it should at present be described as a two-bedroom house. I acknowledge that, with a floorspace of only around 3.8m², the third bedroom falls well short of the minimum area of 7.5m² (and 2.15m width) which would be required for new development by the Nationally Described Space Standard², as applied by the development plan. However, I viewed the entire property on my site visit; I saw that the other two bedrooms are both of a reasonably generous size, and while the third bedroom might not provide optimal accommodation for (say) a teenager (and would be entirely unsuitable for living outside of a single household), it would provide an acceptable bedroom for a baby or young child within a family unit.
7. As a question of fact and degree I therefore find that, taken as a whole, it is right that the appeal property should be considered as a three-bedroom family dwelling. My finding on this matter is reinforced by other properties I saw nearby, including one I entered which had the same original layout as the appeal property, and in which the third bedroom was being refurbished for use as part of a renovated family dwelling. Furthermore, the property could be enlarged by using the roof space, as has already been proposed; this suggests that it would be likely to be adaptable to meet the changing needs of a family in a reasonably economical way.
8. The proposed conversion to an HMO would lead to the loss of a home suitable for family housing. However, Policy SP2.7 does not specifically seek to protect

² "Technical housing standards – nationally described space standard", Department for Communities and Local Government 2015

the existing stock of such housing, and the proposal would provide rented rooms which would contribute to meeting the need for homes of different sizes as sought by that policy. I therefore conclude that there would be no conflict with the provisions of Policy SP2.7 of the CLP, which I have set out in paragraph 5 above.

Living conditions

9. The change to an HMO would see the current living room at the front of the ground floor converted to become a single-occupancy residential bedroom (described in the evidence as either "Let 5" or "Room 5"). The submitted drawings show that the property's four rubbish bins would be stored immediately in front of that room's window; indeed, I saw on my site visit that the small front forecourt garden is already used for that purpose. The siting of the bins would be likely to lead to privacy problems and noise disturbance for an occupier of Room 5, as other occupiers of the house accessed the bins very close to the window. It is also very likely that the smell of the bins would be extremely unpleasant for an occupier of that room, especially in warm weather. The outlook from that room, onto the top of four large bins, would also be fairly dismal.
10. I recognise that problems arising from the storage of rubbish in communal housing are not new. Indeed, the introduction of large wheely bins more generally to housing which was not designed for them has led to situations, as I saw on Grenaby Avenue, where the storage arrangements are (to put it mildly) less than ideal. I also acknowledge that, as the appellant pointed out, as a result of the proposed development "the same bins [...] would be located in the same physical location".
11. However, any occupier of the appeal property at present would have the opportunity to move to other rooms, and to open doors and windows elsewhere in the house to allow the ventilation of the property if necessary. The proposed HMO, on the other hand, would not have any communal living space, only shared kitchens and bathrooms. It is therefore likely that future residents would spend much more time in their individual bedrooms than would be the case in a single household. As a result of the proposed bin storage arrangements, any occupier of Room 5 would have very poor living conditions, for the reasons I have set out in paragraph 9 above.
12. The appellant suggested that the Council's concerns about the bin storage could be overcome by a condition "that further spare receptacles for refuse are purchased and retained in the rear garden and the refuse bags are then transferred into the bins at the front prior to the day of collection"; it was suggested that this would leave the front bins empty for most of the week, and so would mitigate the impact on an occupier of Room 5. However, while such a condition might limit day-to-day disturbance for the occupier of that room, it is not clear to me that it would be possible to enforce such a condition. In any case, the bins would still provide a bleak outlook from Room 5, and even an emptied bin is still likely to smell unpleasant; the suggested condition would not therefore provide an acceptable mitigation of the harmful effect of the bin storage arrangements.
13. I conclude that the proposed development would not provide acceptable living conditions for the future occupier of Room 5. The proposal therefore conflicts with Policies DM10 and DM13 of the CLP which seek to ensure that

development provides a high standard of amenity for current and future occupiers by, among other things, ensuring that refuse and recycling facilities are well-designed and sensitively integrated into a scheme.

Other Matters

14. The 2017 London SHMA stated that "London can be considered as a single housing market area"; the appellant has, in the interests of "consistency in decision making", drawn my attention to a number of cases where Inspectors have allowed appeals relating to small HMOs elsewhere in London, in the boroughs of Redbridge³, Enfield⁴, Barking & Dagenham⁵, and Barnet⁶. While I entirely agree that consistency in decision making is important, it is also necessary to consider the detailed local factors which have informed the preparation of boroughs' development plan policies, as well as the situation "on the ground".
15. None of the other appeal decisions to which I was directed appears to have addressed quite the same matters as in this case, and in none of them did the Inspector find that the proposed HMO would provide a future occupier or occupiers with unacceptable living conditions, as I have here. While I therefore have no reason to disagree with the conclusions my colleagues reached in these other appeals, those decisions do not carry significant weight in favour of the proposal before me.
16. I note the comments made by interested parties, in response both to the planning application consultation and the appeal notification, about the proposal. These raised various issues, including the potential increased demand for parking spaces arising from the development. The site is within a Controlled Parking Zone and the appellant's design and access statement indicated that the proposed HMO would operate as a car-free development, while the Council's officer report considered that if the proposal were otherwise acceptable it would require a legal agreement which would prevent future occupiers acquiring resident parking permits. No such agreement is before me; however, as I am dismissing the appeal for other reasons it has not been necessary for me to pursue this matter with the main parties.

Planning Balance and Conclusion

17. I have found that there would be no conflict with Policy SP2.7 of the CLP. However, the proposed bin storage arrangements would result in the occupier of Room 5 having unacceptable living conditions, and so the proposal would conflict with the development plan taken as a whole.
18. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector

³ PINS Ref: APP/W5780/W/20/3262152

⁴ PINS Ref: APP/Q5300/W/20/3261879

⁵ PINS Ref: APP/Z5060/W/20/3254248

⁶ PINS Ref: APP/N5090/W/20/3261065