
Appeal Decision

Site visit made on 12 July 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2022

Appeal Ref: APP/P5870/W/21/3287238

2 Morningside Road, Worcester Park KT4 8LQ

- 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 Mrs Anastasia Levashova against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/00927, dated 5 May 2021, was refused by notice dated 2 July 2021.
 - The development proposed is a change of use from existing 6-bedroom house in multiple occupation (C4) to a 7-bedroom HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not a large house in multiple occupation (HMO) is acceptable in the proposed location.

Reasons

3. Policy 10 of the Sutton Local Plan 2018 (the 'Local Plan') addresses the issue of loss of housing and conversions. Part (c) of the policy establishes 6 criteria against which proposals for large HMO should be judged. Of those 6 criteria, the Council has not raised concerns in relation to 4 of them: the effect on the living conditions of neighbours; the effect on the character and appearance of the area; internal space standards and on-street parking. There is no evidence before me which would indicate that I should disagree with this view.
4. The Council does however raise concerns with regard to the property not being within an Area of Potential Intensification (API) and also that it is not a detached dwelling. The API appears to be intended to focus the development of more intensive forms of accommodation, such as large HMO, to particular areas of the Borough that are considered most suited to them. This also has the effect of avoiding the loss of single family housing outside of such areas.
5. There is no dispute amongst the main parties that the site is outside of an API. In this respect the proposal is contrary to Policy 10(c)(ii). However, the appellant suggests that as the property is already in use as a small HMO, single family housing has been lost and therefore one of the underlying objectives of the policy is no longer achievable. Examples have been presented of where other Councils have accepted that once permitted development rights have been invoked to change a dwellinghouse to a small HMO, the loss of single-family accommodation has occurred.

6. Putting aside that weight is a matter for the decision maker in each case and the fact that permitted development rights exist to reuse the property as single family accommodation, I have no substantive evidence that the appeal property is likely to be occupied as a single-family dwelling in the near future. As such, if the appeal were to be dismissed, the property would not cease to be a small HMO and so would not increase the amount of single family accommodation available.
7. However, any weight I can give to this factor is tempered by the fact that the Local Plan policy specifically seeks to influence the location of large HMO and direct them to areas best able to cope with increased numbers of residents. In order to be effective, such a policy needs to be applied on a case-by-case basis because of the potential cumulative effects of a series of individual changes. Therefore, to adopt the appellant's approach and simply allow a large HMO to be located outside of an API because of permitted development rights would not be appropriate as it would undermine much of the wider locational objectives of Policy 10(c)(ii).
8. Permitted development rights already existed when the Local Plan was adopted, and so in this respect the Plan has not been overtaken by changes to the legislation. Accordingly, the appeal site already being a small HMO should carry limited weight when considering Policy 10 and all of its wider objectives.
9. Therefore, although the site has moderate accessibility to local shops and services, along with public transport options, it is outside of an API wherein the Council seeks to generally promote large HMO. Accordingly, the proposal would cause harm to the Council's wider strategy and objectives for the location of such uses. This harm is a matter to which I attribute substantial weight.
10. I acknowledge that the conversion of this semi-detached dwelling would not appear to give rise to any adverse effects on the adjoining neighbour, who has no objection to the proposal, subject to existing noise and congestion levels on the street being maintained. However, even if I were to accept that the conversion of a semi-detached dwelling was acceptable in this instance, it would not overcome the fact that the site is not within an API and so would not overcome the reason for dismissing this appeal.
11. Overall, I find that the site represents an inappropriate location for a large HMO. Accordingly, it would be contrary to Policy 10 of the Local Plan which, amongst other things, promotes the delivery of large HMO within Areas of Potential Intensification.

Other Matters

12. The appellant points to both the London Plan's call for more homes to be delivered and the Strategic Housing Market Assessment (2015), which suggests that there is an upward trend in the number of under-occupied houses. Accordingly, the appellant notes the contribution the proposal would make to the supply of low-cost housing and the assistance this would provide to young people. In this respect I have been referred to Policy H9 of the London Plan 2021 which acknowledges the role HMO can play in helping to meet local and strategic housing needs.
13. However, Policy H9 makes clear that it is for individual Councils to establish the role HMO should play in their area. Therefore, given the policy context in the

Borough and the small contribution the proposal would make to housing provision, the weight I could attribute to this issue would be limited.

14. Reference is made by the appellant to factors such as the provision of car parking, standard of accommodation and the building's improved energy efficiency. However, such matters would not diminish the harm caused to the Local Plan's locational objectives.
15. I note that the appellant has set out their approach to managing the property, the vetting and choice of tenants and the professional bodies they belong to. However, Planning Practice Guidance¹ advises that planning permission usually runs with the land, and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission but there are not sufficient grounds in this case to justify such an approach.
16. The property is said to already have a licence for 7 people. However, that is based on other legislation and criteria. I am required to consider the appeal against the development plan and any other material planning considerations. Within that planning context, I do not find that the existence of an HMO licence weighs significantly against the considerable harm I have identified.

Conclusion

17. The proposal does not meet the development plan expectations with regard to where large HMO should be located and so would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR

¹ Paragraph: 015 Reference ID: 21a-015-20140306