



Appeal Decision

Site visit made on 28 September 2022

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 NOVEMBER 2022

Appeal Ref: APP/C5690/W/22/3297491

28 Bexhill Road, London SE4 1SL

- 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 Holding against the decision of the Council for the London Borough of Lewisham.
 - The application Ref DC/21/123905, dated 14 October 2021, was refused by notice dated 9 December 2021.
 - The development proposed is conversion of existing 6 person HMO into a 7-person large HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading, I have used the description of the development set out in the Council's decision notice, omitting any additional wording that is unnecessary to accurately describe the scheme. This describes the appeal proposal more precisely than that given on the application form.

Main Issues

3. The main issues are:
 - Whether the proposed change of use is acceptable, with particular regard to the effect on the supply of housing suitable for family occupation; and
 - Whether the proposal provides an acceptable level of cycle parking.

Reasons

Change of Use

4. The appeal site comprises a mid-terrace property across 4 floors currently in use as a small house in multiple occupation (HMO) for up to 6 residents (use class C4). The proposal includes use of part of the lower ground floor as an additional bedroom with ensuite bathroom, which would result in a material change of use of the property to a larger HMO (sui generis use). I observed on site that this room has been decorated, partly furnished and the ensuite bathroom installed, though it did not appear to be occupied.
5. DM Policy 6 of the Council's Development Management Local Plan (DMLP), adopted 26 November 2014, sets out criteria for considering the provision of new HMOs. While the property is currently in use as a small HMO, this does not

restrict me from considering the development as the provision of a new larger HMO in sui generis use. Amongst other requirements, DM Policy 6 states that new HMOs will only be considered where they do not result in the loss of existing larger housing suitable for family occupation.

6. The appeal property features a proportionately sized rear garden similar to others in the terrace. Internally, the property is laid out formally as a HMO. The current layout would be unconventional for occupation as a family home, with no shared living space, ensuite bathrooms to every bedroom and two small kitchens at ground and first floor. However, while some degree of internal reconfiguration would be required to return the property to a more conventional layout, there is no compelling evidence to demonstrate that this need be unduly expensive or intrusive. There are no other factors that would indicate the property is unsuitable for occupation as a large family home.
7. I acknowledge the property is already in use as a small HMO and is likely to remain so for the foreseeable future irrespective of the outcome of this appeal. The property could, however, be returned to a single dwellinghouse at any time without planning permission by virtue of the property's permitted development rights. This gives a degree of flexibility as to its future use, which would be lost were a sui generis HMO use be established. Even if a planning application to return the property to a large family home were straightforward, this would represent a barrier to its use as such that currently does not exist. I therefore find the proposal would conflict with criteria 1(c) of DM Policy 6 in this respect.
8. The purpose of DM Policy 6 is to control the provision of larger HMOs, and it supports the Council's housing provision objectives and policies. The policy aims to prevent the loss of family dwellings. The policy justification indicates the location of a HMO is generally not suitable for certain areas of the borough due to the impact on social and physical infrastructure. These areas are largely residential or suburban in character and public transport accessibility is lower than others. The area in which the appeal site is located is residential in nature, with a considerable amount of on street car parking. There is no substantive evidence on the availability of public transport. However, based on the area's PTAL rating of 2, this indicates it is relatively poorly served.
9. The appellant considers that, given the current use and established fallback position, the proposal will not create any net additional harm in planning terms. I recognise that, despite the area's PTAL rating, the addition of one additional resident would result in only limited harm to the social and physical infrastructure of the area. However, limited planning harm does not weigh in favour of the proposal or otherwise overcome the identified loss of housing suitable for family occupation and associated conflict with the development plan. Ultimately, there is no clear reason before me to allow an exception to the policy and to do so would undermine its strategic objectives.
10. In respect of this main issue, it has therefore not been demonstrated that the proposed change of use is acceptable, with particular regard to the effect on the supply of housing suitable for family occupation. The proposal is contrary to DM Policy D6 of the DMLP for the reason set out in detail above. DM Policy 6 supports Policy 1 of the Council's Core Strategy Development Plan Document (the Core Strategy), adopted 11 June 2011, which concerns housing provision, mix and affordability. The proposal therefore also conflicts with this policy.

11. The proposal is also contrary to Policy D3 of The Spatial Development Strategy for Greater London (the London Plan), adopted March 2021 which, amongst other things, seeks to ensure that development is of the most appropriate form and land use for the site, and encourages higher density development in locations that are well connected by public transport, walking and cycling.
12. DM Policy 3 of the DMLP highlights the value the Council places on single family houses with three or more bedrooms and clarifies in which circumstances the Council considers a single family house may no longer be suitable for family accommodation. However, as the proposal is not for subdivision of the existing property into two or more dwellings, I do not find the proposal to be in direct conflict with this policy.

Cycle parking provision

13. The appeal proposal includes the provision of cycle parking for seven bicycles within a small enclosed paved area at the front of the property. However, in the current proposed arrangement, access to the cycle store would be very difficult to achieve from within the site due to the confined space in this area. The proposed block plan also does not reflect the existing projecting bay at ground floor that extends into this area, and so it is unclear whether this level of cycle parking could be accommodated at the front of the property.
14. Policy T5 of the London Plan requires compliance with minimum cycle parking standards, as set out in Table 10.2. However, there is no standard specifically for larger HMOs. The table indicates that for sui generis uses, such as the appeal proposal, the standard is as per the most relevant other standard. The Council has applied a standard of 1 space per bedroom, in line with the standard for a studio flat or 1-person dwelling.
15. In respect of C3-C4 uses however, the table appears to indicate that only 2 spaces are required for 'all other dwellings', which a C4 HMO would appear to be categorised as. The property does not currently benefit from any formal cycle parking as it is not subject to planning control. However, if it had been, it would only have been required to provide 2 spaces. It would therefore not be reasonable to require an additional 5 spaces for 1 additional resident.
16. The appellant has suggested a planning condition could be used to secure appropriate cycle parking. Based on my observations on site, I am satisfied that sufficient cycle parking could be accommodated at the front to satisfy the requirements of Policy T5 of the London Plan, subject to a planning condition.
17. I therefore conclude that the proposal would provide an acceptable level of cycle parking. The proposal is therefore in accordance with Policy T5 of the London Plan which, amongst other things, seeks to ensure development facilitates and encourages cycling. The proposal is also in accordance with Policy 14 of the Core Strategy which also requires cycle parking for new development.

Other Matters

18. My attention has been drawn to a recent appeal case at 23 Florence Terrace (Appeal Ref: APP/C5690/W/21/3278457) in which a similar proposal was allowed. The full details of that case are not before me. However, based on the information that is, that site appears to be in an area more accessible by public transport, the property was considered by the Inspector to be better suited as

a HMO, evidence demonstrating demand for larger HMOs in that area was provided, and the Inspector ultimately did not find conflict with DM Policy D6 of the DMLP. The same cannot be said for the appeal proposal in which I find there is conflict with DM Policy D6, in addition to other policies of the development plan. There are therefore material differences between the cases and each appeal must be considered on its own merits.

19. I acknowledge that the proposal would add to the mix of housing in the area. However, no substantive evidence has been provided to demonstrate there is such a shortage of HMO accommodation as to outweigh the conflict with the development plan.

Conclusion

20. While the proposal may comply with other parts of the development plan or national policy, the absence of harm or development plan conflict with respect to other relevant matters, and the issue of cycle parking, is neutral and weighs neither for nor against the proposal. I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan, taken as a whole.

21. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR