



Appeal Decision

Site visit made on 1 November 2022

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2022

Appeal Ref: APP/N5660/W/22/3301824

89 Elder Road, Lambeth, London SE27 9NB

- 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 David Deutch of Net Pex Ltd against the Council of the London Borough of Lambeth.
 - The application Ref 22/00553/FUL, is dated 9 February 2022, was refused by notice dated 3 May 2022.
 - The development proposed is change of use of a residential dwelling to a residential family assessment centre.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect on the supply of houses in the area; and
 - whether or not there is a local need for specialist housing.

Reasons

3. Policy H3 of the Lambeth Local Plan (2021) identifies a clear need to protect existing use class C3 housing in the Borough. Exceptionally, the loss of C3 housing may be considered acceptable, where the proposal is for specialist non-self-contained accommodation (use class C2) to meet an identified local need, in accordance with the requirements of Local Plan Policy H8.
4. The proposal would result in the loss of C3 housing, through the change of use to a residential family assessment centre in use class C2. Accordingly, the policy tests set out in Part A of Policy H8 must be satisfied for the exception to apply and the loss of C3 housing to be acceptable. The supporting text to Policy H8 clearly explains how proposals for the provision of housing to meet specific community needs will be assessed, and that proposals should demonstrate that there is a local need for such accommodation
5. The proposal is intended to provide specialist housing for families with special needs and vulnerabilities. However, there is no clear evidence that there is a local need within Lambeth for this specialist housing. The only limited evidence provided is a short email from the Council's Assistant Director - Corporate Parenting. While this refers to the struggle to identify provision in Lambeth and placements having to be made outside the Borough, it requests further information regarding the proposal and timescales. Moreover, there is no

detailed assessment against the Lambeth Housing Strategy and other relevant strategies, in line with the supporting text to Policy H8. As such, it has not been demonstrated that there is a specific local need for a residential family assessment centre.

6. I note that the proposal would not significantly change the external or internal configuration of the property. I also note the judgement of *North Devon District Council v First Secretary of State* [2003] EWHC 157 (Admin). However, that case was based on an application for a lawful development certificate under section 91 of the 1990 Act, with the evidence focussed on whether using the property in that instance involved a material change of use. The lawfulness of the proposed use is not the issue in this section 78 appeal. The proposal is for development to change the use from C3 to C2 use and the relevant development plan policies must therefore be applied. As such, I give the court judgement little weight.
7. I acknowledge that the new use could at times still be used to house either individuals or small families and in that sense the use would still be residential. Nevertheless, the scheme is for a change of use to C2, which Policy H8 seeks to resist. While it may be that some of the policy tests within this policy would be met by the proposal, there is no substantive evidence to demonstrate a local need for housing to meet specific community needs.
8. For the reasons above, the proposal would harm the supply of houses in the area, and it has not been demonstrated that there is a local need for specialist housing. This conflicts with policies H3 and H8 of the Lambeth Local Plan (2021) which require the safeguarding of C3 housing unless it can be demonstrated that there is a local need for specialist housing.

Other Matters

9. I note that the proposal is said to bring an empty property back into use, and in doing so would be an effective use of land and make optimal use of the site, which would be a clear benefit of the proposal. In doing so the appellant alleges compliance with Policy GG2 from the London Plan (2021) and various National Planning Policy Framework (2021) policies in relation to these aspects. These general benefits however are not sufficient to weigh against the harm that would arise, and other policy compliance would not make the proposal comply with the development plan taken as a whole.

Conclusion

10. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

F Harrison

INSPECTOR