



Appeal Decision

Site visit made on 24 January 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/E5330/W/22/3306157

48 Kenya Road, Greenwich, Charlton SE7 7BH

- 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 S Blaggan against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 22/1710/F, dated 19 May 2022, was refused by notice dated 2 August 2022.
 - The development is retrospective change of use from single dwelling house (use class C3) into a four bedroom HMO with a maximum capacity for up to seven persons (use class sui generis)
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the banner heading, I have referred to the description of the development from the Council's decision notice. This describes the appeal scheme more precisely than that contained within the application form.

Main Issue

3. The main issue is whether the appeal scheme provides adequate living conditions for future occupiers, with particular regard to internal space standards.

Reasons

4. The appeal scheme comprises use of the appeal property as a House in Multiple Occupation (HMO) including 4 bedrooms, a lounge/dining room, a kitchen and one shower room. The Council have assessed the scheme based on a maximum occupancy of up to 7 persons, with regard to the stated bedroom sizes. The appellant's statement confirms it is their presumption for up to 7 people to use the property. Accordingly, it would be a 'sui generis' use. I have therefore considered the appeal on the basis of the HMOs maximum occupancy.
5. The Council's Supplementary Planning Document Residential Extensions, Basements and Conversions Guidance December 2018 (the SPD) indicates that to be considered good quality, proposals for conversions to a HMO will need to provide sufficient internal space. The SPD cites the Council's Standards for Houses in Multiple Occupation adopted in 2018 (the HMO Standards), and advises all applicants refer directly to this. It confirms compliance with all applicable standards should be demonstrated as part of a planning application.

6. The HMO Standards set out a minimum floor area for kitchen facilities of 11.5m² for 7 occupants. It indicates that where exclusive kitchen facilities cannot be provided, one set of kitchen facilities shall be provided for every 5 occupants. The appeal scheme provides a single kitchen for 7 occupants with a stated floor area of 7.3m². It therefore falls considerably short of these standards in both respects based on its maximum occupancy.
7. The appellant contends these standards are not applicable to the kitchen facilities provided by the appeal scheme. The HMO Standards are clear however that the minimum room sizes set out in Table 5 are for kitchens, whether shared or for exclusive use. The appeal scheme provides a shared kitchen. The HMO Standards also clarify that these apply to all accommodation where kitchen facilities are not within the letting room, as per the appeal scheme.
8. For 6-10 occupants, the HMO Standards require minimum two bathrooms or shower rooms, and two toilets with a hand wash basin, one of which shall be provided in a separate room to the bathrooms. The appeal scheme provides a single first floor shower room and therefore also falls considerably short of these standards based on its maximum occupancy.
9. The appellant suggests that only 5 people would be present in the building at any given time. However, this is not something that could reasonably or practicably be controlled while maintaining a maximum occupancy of 7 occupants. Even if the HMO had a maximum occupancy of 5, it would still fail to accord with the HMO Standards, which would require a 9.5m² kitchen and a WC and wash basin that is separate to the bathroom for this size of HMO.
10. In view of the above, I consider the amount of internal space provided by the appeal scheme is insufficient for the number of occupants proposed. I therefore cannot conclude it provides good quality accommodation.
11. The appellant has referred to two examples of certificates of lawful use or development granted for change of use of properties to small HMOs, which they consider are material considerations. The evidence before me indicates that, the Council introduced an Article 4 direction in 2018 which removed permitted development rights for the change of use from a dwelling house to a HMO across the whole Borough. Since then, change of use to any size HMO requires full planning permission. These two cases appear to relate to schemes existing or proposed before this and therefore would have benefited from permitted development rights in place at the time, unlike the appeal scheme.
12. Reference has also been made to two recent planning permissions granted by the Council for change of use of dwellings to larger HMOs, though the full details of each are not before me. Based on the information that is, it appears one was for 7 occupants and included en-suite bathrooms to each bedroom and 3 separate kitchen facilities, each larger than that provided by the appeal scheme. The other was for 8 occupants and provided at least a WC, shower or kitchen facility within each bedroom, as well as communal WC, shower and kitchen facilities. These are therefore not comparable to the appeal scheme and ultimately each case must be considered on its own merits.
13. I conclude that the appeal scheme fails to provide adequate living conditions for future occupiers, with particular regard to internal space standards. It is therefore contrary to Policy D6 of The London Plan March 2021 and Policies DH1 and H5 of the Royal Greenwich Local Plan Core Strategy with Detailed

Policies Adopted 30th July 2014. These policies, amongst other things, seek to ensure housing is of a high-quality design and provides adequately sized rooms. The appeal scheme also conflicts with the SPD and HMO Standards for the reasons set out in detail above.

Conclusion

14. I recognise that the principle of a HMO in this location is acceptable, however this remains subject to consideration of all other relevant matters and planning policies. While the appeal scheme may comply with other parts of the development plan or national policy, the absence of development plan conflict or harm with respect to other relevant matters is a neutral factor.
15. The appeal scheme would positively contribute to the supply of this type of housing within the area. The benefits arising from this would be very modest however given the scale and context of the development. These would be insufficient to outweigh the identified harm and development plan conflict.
16. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan, taken as a whole. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR