



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: 20 MARCH 2023

Appeal Ref: APP/C5690/W/22/3303687

289 New Cross Road, Lewisham, London SE14 6AS

- 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 D Collison, on behalf of Garnet Uk 8 New Limited, against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/22/126428, dated 19 April 2022, was refused by notice dated 17 June 2022.
 - The development proposed is renewal of 2-year temporary planning permission for the change of use from student accommodation (sui generis) to large house in multiple occupation (sui generis).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development entered on the planning application form, appeal form and the Council's decision notice indicates that the change of use concerns the creation of a single house in multiple occupation. However, the site relates to a lengthy terrace, served by multiple points of entry, creating the impression of several separate houses. I wrote to both parties regarding this. The Council did not respond but the appellant responded to the effect that the description is correct and that the proposal concerns a single planning unit.
3. Whether the appeal site concerns a single planning unit/building or multiple units is a planning judgement. Based on the information before me, including the views of the parties, I have proceeded on the basis that the appeal proposal is correctly described as the creation of a single HMO. If that is wrong, it would make no difference to my decision, since the same principles would apply irrespective of whether the proposal relates to a single or several units.

Main Issue

4. The main issue is whether the proposed temporary change of use is acceptable, having regard to the provisions of the development plan that seek to resist the loss of student housing.

Reasons

5. DM Policy 8 of the Council's Development Management Local Plan Adopted 26 November 2014 (the Local Plan) indicates that the Council will resist development that involves the net loss of student housing unless adequate replacement accommodation is provided or the accommodation is no longer

- required, and it can be demonstrated that there is no local demand for student accommodation to serve another local higher education institution.
6. The proposal does not include any replacement student accommodation. The appellant maintains however that the main student need in the local area is from the Goldsmith College, and that they now have no interest in the property. I am advised that the college's lease expired in 2020 and the building has not been used by the college since September 2019. A statement was provided by the college in support of the previous application for a temporary change of use confirming the building was surplus to their requirements at that time, though a copy of this is not before me.
 7. The appellant maintains they know of no party interested in occupying the building in accordance with the permanent permission. However, no compelling evidence has been provided to demonstrate that the accommodation is no longer required, either by the institution it previously served or other local institutions. Based on the lack of evidence before me, the proposal would conflict with the requirements of DM Policy 8 of the Local Plan for this reason. The aim of DM Policy 8 in ensuring an adequate supply of student housing to support the provision of higher and further education in the area could be undermined by allowing the unjustified loss of established student housing.
 8. I recognise that the temporary nature of the proposal means any harm to the Borough's supply of student accommodation would be reduced compared to that of a permanent change of use. However, the PPG is clear that it will rarely be justifiable to grant a secondary temporary permission.
 9. The appellant has cited residual impacts of the Covid19 pandemic and potential for its resurgence as justification for a further temporary permission. While I acknowledge the circumstances that justified the previous permission, it is not clear from the evidence that these circumstances persist. There is therefore little substantive justification provided as to why a further temporary permission is required, rather than a permanent change of use. Given the purported lack of interest in the building as student accommodation, I see no reason why appropriate evidence to justify the change of use of the property could not be provided.
 10. I therefore find that the proposed temporary change of use would not be acceptable, having regard to the provisions of the development plan that seek to resist the loss of student housing. It is therefore contrary to DM Policy 8 of the Local Plan, which seeks to resist development that involves the unjustified net loss of student housing, as set out in detail above. It is also contrary to guidance in the PPG for the reasons set out above.

Other Matters

11. I recognise that existing occupiers may need to seek alternative accommodation in the event the appeal is dismissed. In turn, this may also put additional pressure on Council resources. However, the previous approval was clearly intended as a temporary measure. Given the lack of justification provided in this case, the identified harm and the conflict with the development plan, dismissal of the appeal is a proportionate and necessary response. I am also not persuaded that granting a further temporary permission would negate this issue, rather than simply delaying it and thereby prolonging uncertainty for existing occupiers. Notwithstanding this, the Council would need to consider

the expediency of taking enforcement action before any unauthorised use had to cease and with that the effect on the human rights of existing occupiers.

12. The site is in the Deptford Town Hall Conservation Area. Notwithstanding my findings on the main issue, given the nature of the proposal I consider that it would preserve the character and appearance of the conservation area. It would therefore accord with the clear expectations of statute¹ in this respect.

Conclusion

13. The proposal would contribute towards the provision of HMO accommodation within the area, for which the appellant contends there is a need given the building has been occupied for the past 2 years. No further evidence of housing need has been provided. Even so, given the temporary nature of the proposed use, this would be a limited benefit that would come at the expense of the supply of student accommodation.
14. The appellant contends that keeping the building in use has wider overall benefit than an empty building. However, without compelling evidence to demonstrate the building would not subsequently revert to student accommodation and thus be occupied in any event, this holds little weight.
15. While the use of the property as a large house in multiple occupation may not result in any other harm or conflict with other provisions of the development plan, the absence of harm or development plan conflict with respect to other relevant issues is neutral and weighs neither for nor against the proposal.
16. 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. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.