



Appeal Decision

Site visit made on 28 September 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/L5240/W/23/3316285

9 Earlswood Avenue, Thornton Heath CR7 7HX

- 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 Ermal Haxhiu against the decision of the London Borough of Croydon.
 - The application Ref 21/04471/FUL, dated 2 August 2021, was refused by notice dated 8 August 2022.
 - The development proposed is described as the existing house its a 3 bedroom and the planning are for the property to be changed to HMO - 5 bedsits.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal property is being used as a House in Multiple Occupation (HMO). I am therefore considering this appeal retrospectively.
3. I saw on my visit that the use of the HMO does not fully reflect the submitted plans. The ground floor room labelled as a reception is being used as a bedroom. The loft includes a kitchenette, as well as a bedroom and bathroom. Also, the first floor room referred to by the Council as the box room was being used as a TV room. Nonetheless, this has not affected my assessment of the main issues of this appeal.

Main Issues

4. As part of the appeal, the appellant has provided additional information on the fire safety features at the HMO, including the identification of evacuation assembly points and fire alarms. The Council consider this to sufficiently and satisfactorily address the reason for refusing permission in this regard. From the evidence before me and my observations on site, I am of the same view.
5. The main issues are therefore whether the development:
 - has resulted in the loss of a 3-bedroom house;
 - provides adequate and effective parking arrangements;
 - provides sufficient cycle facilities to serve the occupants; and
 - provides sufficient refuse facilities to serve the occupants.

Reasons

Loss of a 3-bedroom house

6. Policy DM1.2 of the Croydon Local Plan 2018 (Local Plan) permits the redevelopment of residential units where it does not result in the net loss of 3-bedroom homes (as originally built).
7. There is no disagreement between the parties that prior to the appeal property being converted into an HMO it was a 3-bedroom house as originally built. Nevertheless, the appellant considers that the conversion does not result in the loss of a 3-bedroom house as the changes to the internal layout do not preclude it from being used as a single dwellinghouse.
8. The London Borough of Croydon is subject to an Article 4 Direction that removes permitted development rights to convert single dwellinghouses¹ into HMOs². This was put in place to protect family homes. Although the HMO could be reverted to a single dwellinghouse, and the appellant has provided an example of permission being granted for this type of reversion nearby, the Council have limited powers to require this.
9. I appreciate that HMOs provide affordable accommodation for people on low incomes and are supported by the London Plan (2021) (London Plan) as an important part of London's housing offer. However, while it may be that the HMO can accommodate the same number of occupants as a 3-bedroom house, it does not address the same need as a single dwellinghouse.
10. The appellant refers to 5 examples within the Borough where permission has been granted for the change of use to an HMO from a single dwellinghouse. This includes one application that was refused and subsequently allowed on appeal. However, I do not have the full details of these developments before me, and I note that the Council considers three of the examples to not involve the conversion of a 3-bedroom single dwellinghouse as originally built. With no certainty that the circumstances of the permitted developments are the same as the appeal development before me, these examples are not determinative, and I afford them little weight in my decision.
11. Accordingly, for the reasons above, the development has resulted in the loss of a 3-bedroom house contrary to Policy DM1.2 of the Local Plan.

Parking arrangements

12. Earlswood Avenue is within a Controlled Parking Zone (CPZ). It is not overly wide and has on-street parking along both sides. Although there are not a significant number of vehicle movements along it, it is accessed from London Road. London Road is a main road with many vehicle movements, including buses, and dedicated cycle lanes. Parking on London Road is heavily restricted. During my visit there were a very limited amount of parking spaces available close to the appeal property.
13. The parties agree that, given the good level of accessibility and connectivity of the appeal property, the development should be car-free. However, this does not preclude the occupants of the development from owning a vehicle and

¹ Use Class C3

² Use Class C4

could result in 5 additional vehicles competing for the parking spaces on Earlswood Avenue.

14. There is no Section 106 agreement before me to restrict the occupants of the HMO from applying for parking permits in the CPZ. In the absence of a mechanism to stop the occupants of the HMO from applying for a parking permit and parking a vehicle on Earlswood Avenue, the development is not effectively car-free.
15. I appreciate that the appellant may wish for greater certainty regarding the outcome of the appeal prior to entering into a legal obligation. Nonetheless, the Procedural Guide: Planning appeals - England requires the appellant, in cases such as this appeal, to submit an executed and certified copy of any planning obligations no later than 7 weeks from the start date. It explains that the Inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are very exceptional circumstances. I am not aware of any very exceptional circumstances in this case.
16. Therefore, while it may be possible, if needed, to provide disabled person parking on-street, the development has failed to provide adequate parking arrangements and as a result could have a detrimental effect on the safe and efficient operation of the highway.
17. Accordingly, it would conflict with Policies DM29 and DM30 of the Local Plan and Policy T6 of the London Plan. These seek to reduce the impact of new development on car parking and ensure that new development does not have a detrimental impact on highway safety. It would also conflict with the overarching aim of Policy SP6 of the Local Plan. This seeks to reduce greenhouse gas emissions, by among other things, requiring development to positively contribute to improving air quality by minimising pollution. Albeit this policy does not refer specifically to parking.

Cycle facilities

18. The appeal property includes a modest sized rear garden, which is currently laid to hardstanding and on my visit contained an outside table, washing line, barbeque, and bicycle.
19. Policy T5 of the London Plan requires cycle parking to be designed and laid out in accordance with the guidance in the London Cycling Standards. I do not have a copy of these standards before me. However, I understand that best practice requires one cycle space per occupant. The proposal would therefore need to provide 5 cycle spaces.
20. From my observations on site, I am satisfied that these cycle spaces could be accommodated within the rear garden of the appeal property. While they would unavoidably take up some of the garden space, there would be sufficient space remaining for the occupants to utilise and enjoy the garden. In the event the appeal was allowed, these cycle spaces could be secured by condition.
21. The development would therefore accord with Policy DM30 of the Local Plan and Policy T5 of the London Plan, which seek to ensure that new development provides secure cycle parking.

Refuse facilities

22. The appeal property also has a small area to the front. On my visit, this area comfortably accommodated 6 standard sized wheelie bins. Given this, I am satisfied that there is adequate space for the proposal to provide the refuse facilities detailed in the Council's Officer Report. The facilities would be conveniently located and easily accessible by the occupants, as well as operatives and their vehicles.
23. I appreciate that the existing wheelie bins are not visually screened and are located in front of the building line. However, most of the houses along Earlswood Avenue had wheelie bins stored in their frontages and none of them were visually screened. The wheelie bins associated with the appeal development are therefore no more visually intrusive in the street scene than the others. Nonetheless, there appeared to be sufficient space to also screen the refuse facilities, if needed, for example by installing a bin store. In the event the appeal was allowed, these facilities could be secured by condition.
24. The development would therefore accord with Policy DM13 of the Local Plan, which seeks to ensure that the location and design of refuse and recycling facilities are treated as an integral element of the overall design.

Other Matters

25. The Council in its Officer Report concludes the ground floor rear room and first floor box room to provide substandard accommodation, which is contrary to Policies SP4.1 and DM10 of the Local Plan and Policy D6 of the London Plan. However, this is not identified as a reason for refusal on the Council's Decision Notice and the appellant has not considered it as part of the grounds of appeal. Given I am dismissing the appeal for other reasons, I have not considered this further.
26. The appellant considers the HMO to be a more efficient use of land than a single dwellinghouse. Nonetheless, I have no substantive evidence to demonstrate this.

Conclusion

27. Overall, I have found that adequate cycle facilities and refuse facilities could be provided for the development. Nevertheless, the development has resulted in the loss of a 3-bedroom house and fails to provide adequate parking arrangements. Given this, it conflicts with the development plan read as a whole.
28. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR