



Appeal Decision

Site visit made on 24 October 2023

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/G5180/W/23/3321669

123 Hastings Road, Bromley BR2 8NH

- 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 Anthony Dalo-Cole against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/03621/FULL1, dated 13 September 2022, was refused by notice dated 9 November 2022.
 - The development proposed is the two storey rear extension, rear dormer extension and front rooflights, internal and external alterations and change of use of resultant building from single dwellinghouse (Class C3) to a 6 person (6 bedroom) House in Multiple Occupation (HMO) (Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site falls within the area covered by an Article 4 Direction, which came into force in September 2022. This removes permitted development rights for the change of use of a single dwelling house in use class C3, to a small house in multiple occupation (HMO) in use class C4.
3. At my site visit I observed that the two-storey rear extension, rear dormer and front rooflights have been constructed and some internal alterations have taken place. However, for the avoidance of doubt, I have determined this appeal based on the submitted plans.

Main Issues

4. The Council conclude that the design of the extension, taken into account the previous approval for a similar extension to the family dwelling, is acceptable and I see no reason to disagree. Therefore, the main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupiers with particular regard to the layout and quality of accommodation; and
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to noise and disturbance, and the character of the area.

Reasons

5. The appeal site comprises a narrow semi-detached dwelling with a deep rear garden that fronts onto the busy Hastings Road. The surrounding area is a mix

of commercial and residential uses. While there is a local retail parade, bus garage, service station and takeaway / restaurant facilities nearby, there are also residential properties to either side of the appeal property.

Living conditions of future occupiers

6. Bedroom 5 would be set within the roof pitch and it would be served solely by rooflights. These rooflights would offer limited views to the external environment and, as such, future residents would not enjoy a good quality outlook.
7. The communal room would not meet the Council's minimum floorspace required for a shared common room. Further, because of the awkward shape of the room, its partly limited width and the large window as well as the need to facilitate space for sitting to eat and for socialising, the proposal would not provide a functional layout which is fit for purpose for six residents.
8. The HMO would be provided with a single, modest communal kitchen, which the separate residents of bedrooms 3, 4, 5 and 6 would be expected to use. Further, it appears that rooms 1 and 2 would not be served by this kitchen nor do these rooms have any kitchenette, so it is unclear how these occupants would prepare their meals.
9. Although the kitchen would be able to accommodate householder appliances, the usable space would be severely compromised by its narrow footprint. In addition, the kitchen has no window and provides no space for eating. Even though it is unlikely that all residents would require use of the kitchen simultaneously, the kitchen would not be large enough to allow multiple people to prepare food, cook or congregate at the same time. As such, this facility would fail to provide a functional space for its future occupants.
10. Most of the bedrooms would have en-suite facilities and their size would meet the space standards. However, this would not justify the poor quality of the internal communal space provided and limited outlook of bedroom 5.
11. Whilst HMO licensing is a separate entity to planning, the licencing seeks to ensure that an HMO is safe and has basic facilities. Planning policies on the other hand seek to deliver functional accommodation with a high-quality living environment for the intended occupiers. As such, I am not persuaded that a licence would successfully address the proposal's poor quality of accommodation.
12. In conclusion, the proposal would fail to create acceptable living conditions for future occupiers with particular regard to layout and quality of accommodation, contrary to Policies D3 and D6 of the London Plan 2021 (LP) and Policies 9 and 37 of the Bromley Local Plan 2019 (BLP). These policies seek to ensure that new development provides good amenity levels for its future occupiers, amongst other matters.
13. I note the appellant's comments in relation to the Council's policies. However, table 3.2 of Policy D6 of the LP relates to housing quality and standards. Policy 9 of the BLP is relevant insofar as it relates to conversions to non-self-contained accommodation, which to my mind relates to HMOs such as the appeal proposal. Policy 37 of the LP is relevant as it requires all development proposals to respect the amenity of future occupants. As such, I do not share

the appellant's view that control over the quality and standard of accommodation is absent.

Living conditions of adjoining neighbours

14. The appeal site is attached to 121 Hastings Road (No 121), which I also visited. Given the limited width of the pair of semis, there are rooms in both dwellings which share a common wall. The HMO's internal layout would comprise the kitchen set against the common wall with No 121, as well as bedrooms throughout all three floors. I acknowledge that the dwelling could be occupied by a larger family. However, the level of activity associated with six occupants having independent lifestyles would be different from a single family. Families occupying a single dwelling, even a large one, are more likely to carry out day to day activities together as a household. The increased intensity of the residential use, particularly in the upper floor kitchen that sits immediately adjacent to the party wall, would therefore be perceived from the attached property.
15. The appellant contends that the proposal would be subject to stringent controls in terms of sound attenuation under Building Regulations. However, I have not been provided with compelling evidence to demonstrate that suitable sound attenuation measures would be delivered in association with the proposal.
16. The surrounding area experiences some ambient noise, a result of the variety of uses and volume of traffic on Hastings Road as a main distributor Road. Still, due the tight nature of the pair of semis, together with most rooms being off a common wall, the proposal would give rise to unacceptable noise and disturbance on the residents of No 121.
17. The communal entrance door would be to the side of the building, and so the noise and disturbance associated with comings and goings would not be harmful to the residents at No 121. The gardens of both properties are narrow, however given the level of ambient noise experienced in the locality it is unlikely that the proposal would be detrimental to the residents of No 121 while using their garden. Given the separation distance to the dwelling at 125 Hastings Road the proposal would not result in any harm to the living conditions of this neighbouring property.
18. The Council considers the proposed external alterations to the dwelling to be acceptable but raises concerns with the intensity of the use associated with the HMO. The extended dwelling retains the appearance of a single family property. As such, the character of the area would not be affected in this regard.
19. My attention is drawn to other HMOs that have been granted elsewhere in the Borough. However, the approved application at 209 Kent House Road appears to relate to an increase in the number of occupants, therefore an HMO had already been established at the property. I have very limited details of the application at Atlanta House and application 21/04764/FULL3, with no specific details of the circumstances and considerations that led to their approval. As such, I cannot make any useful comparison between the proposal and these schemes.
20. In conclusion, I am satisfied that the proposal would not detract from the character of the area, nor would it be harmful to the living conditions of the residents at No 125. However, it would be harmful to the living conditions of

the adjoining neighbours at No 121, with particular regard to noise and disturbance. As such, the proposal would be contrary to Policies 9 and 37 of the BLP, which seek to protect the amenities of occupiers of neighbouring dwellings, amongst other matters.

Planning Balance

21. The Council cannot currently demonstrate a 5 year housing land supply of deliverable housing sites and the undersupply is acknowledged as 'significant'. Consequently, the provisions of paragraph 11d) of the National Planning Policy Framework (the Framework) should be applied.
22. The Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework seeks to ensure that development creates a high standard of amenity for existing and future users. Therefore, the conflict between the proposal and Policies 9 and 37 of the BLP and with Policies D3 and D6 of the LP should be given significant weight in this appeal.
23. The appeal proposal would make a positive contribution to the housing mix within the Borough, would be located near local shops and services and would be served by public transport. Taken together, these benefits would carry moderate weight in favour of the proposal.
24. On the other hand, the proposal would create poor living conditions for future occupiers and cause harm to adjoining neighbours in terms of noise and disturbance. These matters attract significant weight. Consequently, the adverse impact of the development would significantly and demonstrably outweigh the moderate benefits of the scheme when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

25. I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight, including the provisions of the Framework, to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR