



Appeal Decision

Site visit made on 17 October 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2023

Appeal Ref: APP/C5690/W/23/3320883

8 Shorndean Street, Lewisham, London SE6 2ES

- 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 Soneji against the decision of the London Borough of Lewisham.
- The application Ref DC/22/129607, dated 9 December 2022, was refused by notice dated 10 March 2023.
- The development proposed is change of use from C3 dwellinghouse to sui generis (larger HMO) 7 beds. Including a L-shape rear dormer and loft conversion with 3 front rooflights.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed on my site visit that the rear dormer has been constructed and includes a window in the rear elevation which is not detailed on the proposed plans. Additionally, two rooflights have been installed on the front roof slope. Internally, the property has been laid out as detailed on the proposed plans and was in use as a small House in Multiple Occupation (HMO) (C4 use), with five of the seven bedrooms occupied, at the time of my visit.

Main Issues

3. The Council's decision notice includes two reasons for refusal. However, having read the submissions, including comments from interested parties, I consider there to be three main issues. The main issues are therefore:
 - Whether the development would result in the loss of a house suitable for family accommodation;
 - Whether the proposal makes adequate provision for cycle, refuse and recycling facilities; and,
 - Whether this is an appropriate location for the proposed development, with regard to the accessibility of the site.

Reasons

Loss of a family home

4. The appeal relates to a two-storey mid-terrace property on a residential street, with a front yard and rear garden. The property is described as being a four-bedroom residential dwelling (C3).
5. DM Policy 6 of the Lewisham Development Management Local Plan (2014) (DMLP) relates to the provision of HMOs. Part 1 of DM Policy 6 provides four criteria to

which HMOs should be assessed. In respect of criteria (b) and (d) of Part 1 to this policy, the proposal would not give rise to any significant amenity impacts on the surrounding neighbourhood, and the accommodation proposed would satisfy the housing space standards, and thus accords with these criteria. With regard to Part 1(a), this is considered later in this decision letter.

6. Part 1(c) of DM Policy 6 states that new HMOs will only be considered where they do not result in the loss of existing larger housing suitable for family occupation. Policy 1 of the Core Strategy Development plan document (2011) (CS) identifies family housing as properties with 3+ bedrooms. With four bedrooms and with front and back gardens, this property is suitable for family accommodation. No substantive evidence has been provided to the contrary. Thus, the loss of this property, as existing larger housing suitable for family occupation, places the proposal in direct conflict with part 1(c) of DM Policy 6.
7. During my site visit I observed that the property is currently in use as a small HMO (use class C4), for which a Lawful Development Certificate has been issued. The appellant contends that this represents a fallback position.
8. However, the building in C4 use could be changed back to its previous use as a C3 dwelling under permitted development rights. This gives a significant degree of flexibility as to its future use. This flexibility would be restricted as a result of the proposal, which would establish a sui generis HMO in the property and therefore remove any permitted development rights for it to be converted back to a larger residential dwelling that is suitable for family occupation.
9. The appeal proposal would result in a permanent loss of a property suitable for family occupation, and therefore would be more harmful than the potential fallback position. Thus, I attribute little weight to the appellant's fallback position.
10. I acknowledge the appellant's comments that the proposal would increase the supply of housing in the borough; increase the rate of housing delivery from a small site in respect of Policy H2 of the London Plan (2021); and make more effective and efficient use of the site by providing more bedrooms. However, no substantive evidence has been provided that there is a specific need for more HMO accommodation in this area at the expense of a property suitable for family occupation. Furthermore, the provision of one extra bedroom, above the permitted C4 use of the property, would not outweigh the conflict with the development plan.
11. Consequently, I conclude that the proposal would result in the loss of existing larger housing suitable for family occupation. The proposal would therefore conflict with DM Policy 6 of the DMLP.
12. My attention has been drawn to a dismissed appeal¹ for a similar proposal to convert a small HMO to a larger HMO. This appeal was dismissed on the grounds that the proposal was contrary to DM Policy 6 as it would result in the loss of a larger house that is suitable for family accommodation. The appellant contends that because this appeal was dismissed prior to the Council introducing their Housing Action Plan due to the shortfall in delivery of new housing sites, it should not hold any weight in the current decision-making process.
13. Whilst section 4.48 of the Council's Strategic Housing Market Assessment (March 2022) acknowledges that well managed HMOs would be a more affordable solution

¹ Appeal Ref: APP/C5690/W/17/3185456

for younger, single person households, it goes on to clarify that this needs a balanced approach in order to avoid the loss of family sized housing.

14. Consequently, the need for additional housing in the borough does not override the aims of DM Policy 6 to retain larger housing suitable for family accommodation. As such, the previous appeal decision is a material consideration in the determination of this appeal proposal which would also result in the loss of existing larger housing suitable for family accommodation, in conflict with the development plan.
15. I note the Council's reason for refusal includes CS Policy 1 and Policy D3 of the London Plan, however I have found no conflict with these policies insofar as they relate to appropriate housing mixes and family house provision. Furthermore, the Council's reason for refusal refers to DM Policy 3 of the DMLP, however this policy relates to the conversion of a single family house to two or more dwellings and is therefore less relevant here.

Cycle, refuse and recycling facilities

16. The parties are in agreement that Policy T5 of the London Plan requires the provision of 7no. secure cycle parking spaces for this development. Furthermore, CS Policy 13 sets out the Council's waste management strategy for new development, requiring proposals to be designed to incorporate the existing and future long-term needs of waste management and disposal.
17. Whilst it is acknowledged that the submitted plans do not show where the cycle, refuse and recycling facilities would be located, the appellant's submissions state that they could be provided to the front of the property within the courtyard area, as is common on this street, with extra cycling provision capable of being provided at the rear, if required. Having visited the property, I agree that there is space in the front courtyard area for the provision of refuse and recycling facilities.
18. In terms of cycle storage spaces, whilst I acknowledge that all required cycle spaces may not be able to be provided to the front of the property alongside refuse and recycling facilities, a planning condition could secure some high-quality cycle storage provision to the front for frequent cycle users. Additional cycle storage could then be provided at the rear for less frequent cycle users who would need to transport bikes through the hallway of the property.
19. In light of the above, I conclude that even with the constrained nature of the site, the proposal has the capability of making adequate provision for cycle, refuse and recycling facilities, in accordance with Policy T5 of the London Plan, Policy 14 of the CS and Policy 13 of the DMLP, which together seek to ensure, amongst other things, that development proposals provide the appropriate provision of cycle parking and are designed to incorporate waste management needs.
20. The Council's reason for refusal on this issue refers to DM Policy 30 of the DMLP, however this policy relates to urban design and local character. This policy does not specifically relate to the provision of cycle, refuse and recycling facilities, and therefore is not determinative in relation to these matters.

Appropriate location and accessibility

21. Whilst not specified in the reasons for refusal, the Council's Officer Report and Appeal Statement, both make reference to the appeal site being located in an area with a public transport accessibility level (PTAL) of 2, which is contrary to part

- 1(a) of DM Policy 6 of the DMLP, which states that new HMOs will only be considered where they are located in an area with a PTAL of 3 or higher.
22. Whilst the appeal proposal would conflict with this part of DM Policy 6, I observed on my site visit that the appeal site is located close to both the South Circular Road (A205) and Sangley Road, which both support regular bus services. Furthermore, the Catford Bridge Train Station and Catford Centre are both a short walk from the appeal site, with Catford Centre offering a good variety of shops and amenities.
23. Therefore, occupiers of the proposed development would not necessarily require their own car to access services and facilities, and paragraph 104 of the National Planning Policy Framework advises that opportunities to promote walking, cycling and public transport use should be identified and pursued in development proposals. Furthermore, the proposal includes sufficient space for cycle storage facilities and the submission details how the proposal would be a car-free development, which could be secured had the appeal been allowed.
24. Consequently, I consider the appeal site to be situated in a sustainable location that is well connected and accessible by public transport, and has good access to nearby shops and services.
25. Accordingly, whilst the proposal conflicts with part 1(a) of DM Policy 6 of the DMLP, insofar as the site is located within PTAL 2, for the reasons detailed above, I conclude that the site has reasonable access to services, and therefore having regard to the particular circumstances of this case, this issue is not a determinative factor in my decision.

Other Matters

26. A concern has been raised in respect of potential overlooking from the window in the side elevation of the dormer extension into neighbouring properties. However, I saw that there is a window in the end rear wall of the dormer, from which I could identify no significant overlooking above the present situation. Should this appeal have been allowed, a condition could have been attached requiring both windows in the side elevation of the dormer, facing towards number 10 Shorndean Street, to be obscurely glazed and non-opening up to a height of 1.7m above floor level. This would reduce any risk of overlooking towards neighbours' rooms and gardens to an acceptable degree.

Conclusion

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

R Major

INSPECTOR