



Appeal Decision

Site visit made on 5 March 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal Ref: APP/C5690/W/23/3325765

85 Laleham Road, London SE6 2JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Moffatt against the decision of London Borough of Lewisham.
 - The application Ref is DC/22/128943.
 - The development proposed is change of use from C4 (6 person HMO) to sui-generis (7 person HMO).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
3. The Council referred to a number of Appeal Decisions in its Statement of Case, and copies of these have been provided to the appellant. I have had regard to the comments made on these Decisions.

Main Issues

4. The main issues are:
 - Whether the proposal would comply with development plan policy with regard to larger family housing; and
 - The provision of cycle parking.

Reasons

Larger Family Housing

5. The appeal site is in use as a small HMO providing accommodation for up to 6 persons, which falls within class C4 of the Use Classes Order. The proposal would change this to a larger HMO for 7 persons which would be classed as being sui-generis.
6. DM Policy 6.1 of the Development Management Local Plan 2014 (DMLP) sets out that the provision of new HMO's will only be considered where they do not result in the loss of existing larger housing suitable for family occupation. The explanation and reasoned justification given in the supporting text for that

Policy states that it aims to “...provide controls for Houses in Multiple Occupation (HMO) that fall within the Sui Generis Use Class”. It goes on to state that “without careful consideration a HMO can lead to the loss of family dwellings...”.

7. Although the appeal property is in use as a small Class C4 HMO and may remain so, it could change to a Class C3 dwellinghouse without the need for planning permission. This gives a significant degree of flexibility in support of the potential use of the property as a family dwelling. Given the nature of the property and the area in which it is located, the proposal relates to larger housing suitable for family accommodation. The proposed change of use would harm the extant ease and flexibility available to provide family housing under permitted development rights. The proposal is therefore contrary to the provisions of DM Policy 6.1 of the DMLP.
8. The appellant contends that DM Policy 6.1 only refers to “new” HMO’s, and that as the appeal site is currently in use as a HMO then the appeal proposal is not a new HMO. They further submit that the proposal relates to the intensification of an HMO adding only 1 additional person. However, the proposal would relate to a development consisting of a change of use which would create a new Sui Generis HMO. The proposal is therefore for a new development, and to my mind it is reasonable to assess the proposal as relating to a new HMO within the context of the development plan. This is particularly the case when reading the development plan as a whole, including the supporting text, which aids the interpretation of DM Policy 6, and which specifically sets out that the Policy relates to development such as that proposed.
9. This reasoning is consistent with a number of other Appeal Decisions in the Council’s area. The appellant considers that the Inspectors in those appeals have mis-directed themselves. However, I consider that those other Appeal Decisions are robust in their interpretation of DM Policy 6.
10. The appellant has provided a copy of an Appeal Decision in Newton Abbot¹, but this does not represent a direct parallel to the appeal proposal in respect of development plan policy on this main issue.
11. Drawing the above together, I conclude that the proposal would lead to the loss of existing larger housing suitable for family occupation and would therefore conflict with DM Policy 6 of the DMLP and Policy 1 of the Core Strategy 2011 which seek to provide a suitable mix and affordability of housing.
12. The Council also refers to DM Policy 3 of the DMLP which relates to the conversion of a single family house to two or more dwellings. However, notwithstanding the potential use of the appeal site as a family house, the proposal does not relate to the conversion of the property to two or more dwellings. DM Policy 3 is therefore not relevant to the appeal, but this does not negate my conclusions in respect of other development plan policies.

Cycle Parking

13. The Council considers that under the policies and supporting tables of the development plan then 7 secure, covered and accessible cycle parking spaces should be provided. It has not been demonstrated that the appeal proposal

¹ Appeal Ref: APP/P1133/W/18/3203998

could provide this number of spaces, especially given the limited accessibility to the rear of the property.

14. However, the proposal would only result in an increase of 1 person living at the property. Given the nature of the existing use of the site and the fact that this may continue, any increase in cycle parking should be proportionate to the effects of the proposed development only. It would therefore be reasonable to require 1 cycle parking space to be provided for the very limited increase in residents at the site. Based on the evidence before me as well as my own observations, a cycle parking space could be provided within the front garden of the property and this could be secured by condition.
15. Subject to an appropriate condition, I conclude that the proposal would not conflict with Policy T5 of the London Plan 2021 or Policy 14 of the Core Strategy with regards to cycling and sustainable transport.

Other Matters

16. I am mindful of the benefits arising from the proposal, including the need for well managed HMO accommodation in the area. However, the appeal site could continue to provide accommodation as an HMO, and the benefits arising from accommodation for a further single person would be very limited.

Conclusion

17. Notwithstanding my conclusion in relation to cycle parking, the proposal would conflict with the development plan when read as a whole with regard to the mix and affordability of housing. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR