



Appeal Decision

Site visit made on 3 April 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Appeal Ref: APP/C5690/W/23/3322450

38 Haddington Road, Bromley, Lewisham BR1 5RH

- 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 Helena Kugbe against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/22/128390.
 - The development proposed is change of use to 4 bed HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
3. Representations made by an interested party refer to the Lewisham Local Plan - Proposed Submission Document – Regulation 19 stage - January 2023, which has been submitted for independent examination. Copies of relevant emerging policies have not been provided and neither main party has referred to this document in their appeal submissions. There is no evidence to indicate whether there are outstanding issues with emerging policies, when the plan is likely to be adopted or if any policies will be modified. I have therefore determined the appeal based on the adopted development plan.

Main Issue

4. The main issue is whether the proposed change of use is acceptable, with particular regard to the effect on the supply of accommodation suitable for family occupation and the accessibility of public transport.

Reasons

5. The appeal site comprises a 2-storey semi-detached house and its associated curtilage. The surrounding area is predominantly residential in nature and is primarily comprised of similar semi-detached and terraced houses. The proposal seeks to change the use of the property to a house in multiple occupation (HMO) with 4 bedrooms for occupation by up to 6 residents.
6. On 7th March 2020 an Article 4 Direction came into force covering the ward in which the appeal site is located. This direction removed permitted development rights for changes of use from C3 (dwellinghouses) to C4 (HMO) use. Planning permission is therefore required for the change of use from use class C3 to C4.

7. The evidence indicates that the property was previously a family home. A recent Lawful Development Certificate application to demonstrate a HMO use commenced prior to the Article 4 direction coming into force was refused due to insufficient evidence. An enforcement case was also opened regarding an unauthorised use as a HMO. It's lawful use thus falls within use class C3.
8. DM Policy 6 of the Development Management Local Plan Adopted 26 November 2014 (the Local Plan) states that the Council will only consider the provision of new HMOs where, among other requirements, they are located in an area with a PTAL of 3 or higher and do not result in the loss of existing larger housing suitable for family occupation. The supporting text indicates HMOs considered to be sui generis will be assessed using this policy. Nevertheless, there is nothing within the policy wording itself that would preclude its application to other HMOs, where planning permission is required, as in the case before me.
9. The justification for DM Policy 6 indicates that the location of a HMO is generally not suitable for certain areas of the borough due to the impact on social and physical infrastructure. These areas are largely residential or suburban in character and public transport accessibility is lower than others.
10. The area in which the appeal site is located is residential in nature, with unrestricted on street car parking. The appellant highlights that there is a bus stop within 240 metres of the site providing connections to key centres. There are further stops approximately 500 metres away. Bicycle storage is also proposed, though the details of that are not before me.
11. Nevertheless, the nearest train stations are an appreciable distance from the site. The frequency of public transport services is also not clear. Notably, the area has a Public Transport Accessibility Level (PTAL) rating of 2, confirming that it is relatively poorly served. The proposal would therefore conflict with criteria 1(a) of DM Policy 6.
12. The representations before me indicate that there is a Transport for London proposal to install a bus stop in Haddington Road close to the appeal site. While this may improve access to public transport, no further details have been provided and I must assess the proposal based on the current circumstances.
13. The parties agree that the property is suitable for family occupation. However, the proposal would formally change its planning status and the proposed internal alterations would create a somewhat unconventional layout for a single-family home. Reverting to its former use would therefore not be straightforward. The proposal would thus result in the loss of existing larger housing suitable for family occupation, contrary to criteria 1(c) of DM Policy 6.
14. Paragraph 11 of the Framework states that decisions should apply a presumption in favour of sustainable development. Paragraph 11(d) applies where the policies which are most important for determining the application are out of date. I recognise that the Local Plan was adopted almost 10 years ago. However, Paragraph 225 states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.
15. Paragraphs 60 and 63 of the Framework seek to ensure an appropriate mix of housing types for the local community and that the size, type, and tenure of

housing needed is reflected in planning policies. Paragraphs 109 and 114 seek to promote sustainable transport modes and indicate that the planning system should actively manage patterns of growth, with significant development focused on locations which are or can be made sustainable.

16. I have not identified any inconsistencies between the Framework and the aims of DM Policy 6, which seeks to locate HMO development where public transport accessibility is good and to protect the supply of family homes, ensuring an appropriate housing mix and supporting strategic objectives and policies.
17. My attention has been drawn to the Council's Corporate Strategy 2018-2022. This document does not form part of the development plan. Nevertheless, the appellant highlights that the key strategic housing objectives set out within it include genuine affordability and a variety of tenure types. I also recognise that HMOs are an important part of London's housing offer, and this is reflected in the London Plan 2021.
18. The appeal proposal would contribute to the supply of HMOs locally. There is however no substantiated evidence before me, in the Corporate Strategy or elsewhere, to indicate that there is a shortfall in HMOs in the local housing mix or an overwhelming need for this type of accommodation in this area. Moreover, there is no compelling justification for the delivery of such accommodation to come at the expense of family housing, for which there is also an identified need.
19. I acknowledge that affordability remains a key issue in the area. The cost of HMO accommodation would likely be lower than that for a 3-bedroom house, and the appellant contends the proposal would make an active contribution to the provision of affordable housing in Lewisham. However, these are two different types of accommodation serving different needs, and there is no indication that the proposal would otherwise provide affordable housing as defined in the Framework. Moreover, a reduction in the supply of family housing is likely to negatively impact on its affordability in this area.
20. I conclude that the proposed change of use would not be acceptable, with particular regard to the effect on the supply of accommodation suitable for family occupation and the accessibility of public transport. It would be contrary to DM Policy D6 of the Local Plan for the reason set out in detail above.
21. DM Policy 3 of the Local Plan highlights the value the Council places on single family houses with three or more bedrooms and clarifies in which circumstances the Council considers a single family house may no longer be suitable for family accommodation. However, provided the proposal would not result in the formal subdivision of the existing property into two or more dwellings, I do not find that it would be in direct conflict with this policy.

Other Matters

22. The description of the proposal refers solely to a 4-bed HMO. However, the proposed plans depict a largely self-contained space to the rear with discrete bedroom, kitchen and bathroom facilities and a separate external access. Though an internal door is shown between this space and the rest of the house, it may otherwise function as an independent flat and therefore may not comply with the definition of a HMO. Nevertheless, as the appeal is dismissed for other reasons, I have not considered this matter further.

23. While the appeal proposal may comply with other relevant parts of the development plan or national policy and guidance, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.

Conclusion

24. The proposed development conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR