



Appeal Decision

Site visit made on 12 July 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/C5690/W/24/3340565

48 Kneller Road, Crofton Park, Lewisham, London SE4 2AP

- 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 M Goldberg, Farley Properties Ltd against the decision of London Borough of Lewisham.
 - The application Ref is DC/23/133976
 - The development proposed is Proposed change of use from 6 person HMO (Class C4) to a 7 person HMO (sui generis)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
3. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to paragraph numbers are to this version.
4. The appeal submission includes a revised drawing which details the provision of a cycle store. I have considered the proposed new drawing and information taking into consideration the principles established by the Courts in Holborn Studios Ltd¹
5. I am satisfied that my acceptance of the revisions would not deprive those who were entitled to be consulted on the changes that opportunity, given the small-scale nature and extent of the changes proposed, and that the Council and other interested parties have had an opportunity to comment. For this reason, I consider that there would be no prejudice to any party by considering the additional information. I have therefore determined the appeal on the basis of the additional information.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Main Issues

6. The main issues are:

- the effect of the proposal on the Borough's stock of larger housing suitable for families;
- the effect of the proposal on the quality of accommodation for future occupiers with particular regard to the size and layout of the proposed communal kitchen/living accommodation; and
- whether the proposal would promote active travel, with particular regard to cycle parking provision.

Reasons

Stock of larger housing

7. The appeal site is a two-storey end of terrace dwelling, with accommodation provided at roof level, located within a predominantly residential area. It is in use as a six person House in Multiple Occupation (HMO), and submitted evidence includes an HMO Licence for this.
8. The Council indicate, and it is not disputed by the appellant, that the South East London Strategic Housing Market Assessment identifies a local need for family sized dwellings within Lewisham. A family dwelling suitable for households including children is defined as consisting of three or more bedrooms. DM Policy 6 of the Lewisham Development Management Local Plan (2014) (DMLP) states that the Council will only consider the provision of new HMOs where they do not result in the loss of existing larger housing suitable for family occupation.
9. The appeal property is located in a residential area which predominantly contains a mix of family sized dwellings and former family dwellings divided into smaller accommodation. The layout of the property is such that it would function as a good sized four to six bedroom family dwelling. From my observations on site and from the evidence before me, I can see no reason why the property would be unsuitable for use as a family dwelling.
10. I acknowledge that the appellant has spent funds to convert the property to an HMO and that it has been licensed by the Council since 2020. It has been put to me that the refusal of this appeal would not result in the site being reverted to a C3² use. Furthermore, the appellant suggests that in the event that planning permission were granted for a seven bedroom HMO, a future application to return the property to a C3 use would be unlikely to be resisted by the Council.
11. Whilst the property is currently in use as a Class C4 HMO and may remain so, this can be changed to a Class C3 use under the property's permitted development rights which 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 a dwelling that is appropriate for use as a single family home. As such, the proposal would result in the loss of existing larger housing suitable for family accommodation, notwithstanding when it was last used as such, or when it will be next.

² Defined in the Town and Country Planning (Use Classes) Order 1987, as amended.

12. Consequently, I conclude that the proposal would have a harmful effect on the Borough's stock of larger housing suitable for families. I therefore find that it would conflict with Policy 1 of the Lewisham Core Strategy (2011) (CS) and Policies DM 3 and DM 6 of the DMLP. These policies seek to ensure that the Borough maintains a range of housing provision including family accommodation.

Living conditions for future occupiers

13. The appeal plans show that the ground, first and second floors are occupied by six bedrooms, measuring between 13.2 and 16.2 square metres. There is a communal ground floor kitchen and second floor communal lounge.
14. It is proposed to convert the lounge to provide a seventh bedroom. Consequently, the sole communal area for the HMO would be the kitchen which would be 11 square metres. The submitted drawings indicate the kitchen would contain two domestic ovens with hobs, two sinks with draining areas, and three seats facing a counter. The appeal plans and submitted evidence do not indicate the provision of any additional storage space, and it is unclear where the kitchen fridge would be located.
15. An additional occupier would create further pressure on the kitchen storage space, worktops, and fridge. Whilst there would be seating for three persons within this room, the overall size of the room would not comfortably accommodate all seven occupiers at the same time. It may be that all seven residents are unlikely to use the room frequently. However, it is likely that there will be occasions where residents wish to spend time in the room together. Given the limited size of the room this is unlikely to be possible.
16. The appellant indicates that the proposal would comply with the Council's standards for a 7 person HMO. I have not been provided with a copy of the guidance or standards referred to by the appellant, and it is unclear which document the appellant is referring to. Notwithstanding this, Licensing Standards related to HMOs generally ensure that HMOs meet the minimum standards of accommodation fit for human habitation relating to matters such as fire safety and access to basic facilities, including kitchens, bathrooms, and toilets. The development plan has a wider role to play in ensuring that a good quality of accommodation is secured to provide a good standard of living conditions for future occupiers.
17. The main parties agree that the bedrooms within the appeal property are an acceptable size. Notwithstanding this, and whilst the development would result in only one additional resident, I find that the communal living space available for seven occupants would be very limited. This would create an unacceptably poor living environment which would significantly harm the occupants' living conditions.
18. For the above reasons, I conclude that the proposed development would not provide satisfactory living conditions for its occupants. Therefore, in this respect, it would be contrary to Policy D6 of the London Plan (2021) (LP), Policy 15 of the CS and DM Policies 6 and 32 of the DMLP and paragraph 135 of the Framework. Together, these policies require that new development protects the living conditions of future and existing residents.

Cycle parking

19. The appellant has provided a drawing which indicates an area for a cycle storage rack within the appeal property's rear garden. The Council indicate that the London Cycle Design Standards (LCDS) require bay widths to be a minimum of 2 metres in length, and a minimum of 1 metre must be provided between stands. For these requirements to be met the cycle parking would need to be 6 metres wide and 2m in depth.
20. The Council states, and it is not disputed by the appellant, that the rack would not meet these minimum dimensions.
21. Consequently, the proposal would not provide adequate safe, secure and accessible cycle storage for the future occupiers. Therefore, in this respect, it would not comply with Policy T5 of the LP and Policy 14 of the CS. Amongst other aspects, these policies require cycle parking to be integrated into development and to be secure, covered and accessible in accordance with the LCDS.
22. I also find conflict with paragraph 108 of the Framework which states that transport issues should be considered from the earliest stages of development proposals so that opportunities to promote cycling are identified and pursued.

Other Matters

23. The appellant has identified development plan policies and Framework paragraphs relating to matters including making the best use of land, which it is contended that the proposed development would accord with.
24. The appeal site is located within a well connected area with access to local shops and services. I recognise that HMOs can provide a specialised, more affordable housing option in comparison to self-contained housing, whilst also contributing to meeting a range of housing needs. In this case, the appeal proposal would provide accommodation for an additional occupier, and this would in turn contribute towards the supply and mix of housing in the area, whilst increasing the density of development on previously developed land. Be that as it may, these matters do not outweigh the harm I have identified.
25. Given the scale of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in an unacceptably poor living environment which would significantly harm the occupants' living conditions. The development would also result in the loss of a larger housing unit suitable for families, and is contrary to the clear policy objective of protecting this type of accommodation in the borough. As it would not provide acceptable cycle parking, it would also fail to promote sustainable transport modes. These matters weigh strongly against the proposal.
26. All other matters including the effect of the proposal on neighbouring occupiers were found acceptable by the Council. However, the lack of harm related to these matters means that they have no weight either for or against the development when it comes to the planning balance.

Conclusion

27. The proposal would not accord with the development plan as a whole and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR