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## Appeal Decision

Site visit made on 28 January 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

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**Appeal Ref: APP/U5360/W/24/3352804**

**9 Clifden Road, Hackney, London E5 0LL**

- 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 Sam Musk against the decision of the Council of the London Borough of Hackney.
- The application Ref is 2024/1042.
- The development proposed is for the erection of a ground floor 3m wrap-around extension and mansard roof extension, as well the change of use from a dwellinghouse to a large HMO 7 units.

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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs in relation to this appeal was made by the appellant against the Council of the London Borough of Hackney. This application is the subject of a separate decision.

### Preliminary Matters

3. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to comment further. Where references are made to paragraph numbers of the Framework, these are references to the most recent version.
4. The description of the development has been taken from the application form. However, the reference to the proposal being a resubmission and details of the planning history of the site have been removed as they are not an act of development.

### Main Issues

5. The main issues are:
  - the effect of the proposed development on the supply of family housing;
  - whether it has been demonstrated that proposed rent levels would be suitable for people on low incomes; and
  - whether the proposal would encourage sustainable modes of transport with regard to parking provision.

## Reasons

### *Family Housing*

6. The appeal property is located in a mainly residential area, with good access to schools and public parks. The appeal relates to a five bedroom, mid-terrace house in a residential street of largely two storey, terraced housing. The development would allow for the use of the building as a large HMO with bedrooms on the ground floor, first floor and in the attic; and a communal living area on the ground floor.
7. The size and configuration of the house and garden mean that it would presently be suitable for family accommodation including those with young children. The effect of the change of use is that the house is no longer available for accommodation on such a basis. While the Council recognises the role HMOs play in meeting housing demand, they note that there is significant need for family housing. The conversion of existing family homes to HMOs further reduces their availability.
8. In order to ensure proposals for new HMOs are suitable Policy LP22 of the Hackney A Place for Everyone Hackney Local Plan 2033 Strategic Planning Adopted July 2020 (HLP) supports proposals for new HMOs only where they meet specific criteria. Criterion i of LP22 states that proposals for new HMOs are acceptable only where they do not result in the loss of existing housing suitable for family accommodation.
9. As detailed above the appeal property as existing is a family home. The effect of the change of use would be that the house is no longer available for accommodation on such a basis. While the role HMOs play in meeting housing demand is recognised, there is also a significant need for family housing; and this is reflected in the Council's policy. The conversion of existing family homes to HMOs further reduces their availability.
10. For the reasons detailed above the proposed development would have a harmful effect on the supply of family housing. Therefore, the proposal would be contrary to Policy LP22 of the HLP, which allow for new HMOs only where they would not result in the loss of existing housing suitable for family occupation.
11. In reaching the above conclusion I do not find conflict with Policy H8 of the London Plan 2021 as this policy relates to the demolition and replacement of existing housing.

### *Affordable Housing*

12. In order to meet an identified need for affordable housing in the borough criterion iv of Policy LP22 of the HLP also requires that new HMOs would be supported where the rent levels would be suitable for those on low incomes. Within paragraph 7.31 of the HLP the supporting information states that proposed shared housing development will be subject to a planning agreement to ensure rents for rooms remain affordable for individuals earning a low-income in the long term.
13. In the absence of a completed planning agreement to demonstrate that proposed rent levels would be suitable for people on low incomes, I have no mechanism for ensuring that the development would meet the requirements of criterion iv of Policy LP22. As a planning agreement is required in order to demonstrate compliance with

policy a planning condition would not be a suitable mechanism for securing this information.

14. For the reasons detailed above it has not been demonstrated that proposed rent levels would be suitable for people on low incomes. Therefore, the HMO would be contrary to Policy LP22 of the HLP which requires that proposed rent levels for new HMOs would be suitable for people with low incomes.

### *Sustainable Transport*

15. The application site is within a controlled parking zone (CPZ), which is indicative of a level of parking stress as existing. I also noted on my site visit that available on-street parking spaces were limited.
16. Whilst future occupants may not be dependent on private cars for day to day transport requirements they might want to own and park a vehicle for those journeys that aren't possible or practical on public transport. This would exacerbate the level of parking stress in the area and have a detrimental impact on the safe and efficient operation of the local highway network.
17. There would be insufficient space within the plot to provide off-street parking and the proposed dwelling would be required to be car-free. Therefore, a planning obligation would be required to prevent the HMO from being occupied by individuals that hold a parking permit.
18. The appellant has stated that they would be willing to enter into an agreement to prevent future occupants from applying for a parking permit. However, in the absence of a completed planning obligation to secure the development as car free, I have no mechanism for securing the required restriction.
19. For the reasons detailed above the proposal would fail to encourage sustainable modes of transport with regard to parking provision. Therefore, the proposal fails to comply with the requirements of Policy LP 45 of the HLP which requires that all new development is car free; with on-site parking limited to specific exceptional circumstances; and also minimises the impact of car based travel on the operation of the road network.

### **Other Considerations**

20. The appellant asserts that they have permitted development rights to change the use of the property from a dwellinghouse to a House of Multiple Occupation for up to 6 persons (Use Class C4). I have no reason to doubt that the development would be carried out if I were to dismiss this appeal. As such, the loss of a family home would more than likely occur either way. This is a significant consideration in favour of the proposal, which I will return to in the planning balance.

### **Other Matters**

21. The appeal scheme before me is a resubmission of a preceding application refused by the Council<sup>1</sup>. I appreciate that the appellant has attempted to overcome the concerns previously raised. However, this development would still result in a proposal that would be contrary to the development plan for the reasons I have outlined.

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<sup>1</sup> 2024/0030

22. The Council raised no concerns regarding the living conditions of future occupants and the occupants of neighbouring properties. Based on the evidence before me I have no reason to disagree with the Council. However, an absence of harm in these respects are neutral factors weighing neither for nor against the proposal.
23. The appellant asserts that there have been several appeal decisions where the existence of permitted development rights to allow for the conversion of a dwelling house to a small HMO was given substantial weight. The full details of any previous appeals where the Inspector has taken this approach have not been provided. While I cannot be certain that the circumstances that applied in these instances are the same as the appeal before me, as detailed above I have taken a similar approach.

### **Planning Balance**

24. The Framework states that the planning system should be genuinely plan led. The development plan is the starting point for decision making and I must make my decision in accordance with it unless other considerations indicate otherwise. In this case, the conflict with local policy in respect of the loss of a family home to the housing stock draws the scheme into conflict with the development plan read as a whole.
25. However, the existence of permitted development rights to change the use of the property from a dwellinghouse to House of Multiple Occupation for up to 6 persons means that the loss of a family home would occur either way. In these circumstances, the fallback position is a consideration which must outweigh the harm that I have identified. It indicates that I should make a decision which is not in accordance with the development plan in this regard.
26. Notwithstanding the above, I have found that it has not been demonstrated that proposed rent levels would be suitable for people with low incomes, and it would fail to encourage sustainable modes of transport with regard to parking provision.
27. HMOs provide much-needed housing within the city. However, they need to be subject to careful control in order to ensure that they meet an identified need for low cost housing and encourage sustainable modes of transport; which would also prevent increased parking pressure. In this case the benefit of providing an HMO in this location is outweighed by the harm.

### **Conclusion**

28. The development would conflict with the development plan. This conflict is not outweighed by other considerations. Therefore, the appeal is dismissed.

*C Livingstone*

INSPECTOR