



Appeal Decision

Site visit made on 19 May 2025

by F P Tinsley MA (Hons) MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/E5900/W/25/3358610

12 Blackthorn Street, Tower Hamlets, LONDON. E3 3PX.

- 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 Harun Rahman of Rainbow Real Estate Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application reference is Ref PA/24/01731.
 - The development proposed is 'Change of use from small HMO for up to 6 persons to a (C4) large HMO (Sui Generis) and cycle parking.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

1. The description of development detailed in the planning application form seeks permission to change the use of the premises from a small HMO accommodating up to six people (Use Class C4) to a large HMO (Sui Generis). The Council contests that the lawful use of the premises is as a dwelling house (Use Class C3). It is not within my role in determining this appeal to establish the lawful use of the premises, as this can only be formally determined through a lawful development certificate application.
2. Notwithstanding the description of development set out above, which has been taken from the application form, it is clear from the plans and accompanying details and my site visit that the existing use of the premises is as an HMO. My review of the property's planning history indicates that there is sufficient ambiguity to prevent the lawful use of the premises from being conclusively established in the context of this appeal. The Council has assessed the proposal on the basis that the existing lawful use of the premises is as a dwelling (Use Class C3), and I will proceed on the same basis.

Main Issue

3. The main issue is the effect of the proposal on local housing provision.

Reasons

4. Policy S.H1 of the Tower Hamlets Local Plan 2031 (2020) (the Local Plan) amongst other things states that the borough will secure the delivery of at least 58,965 new homes across the borough between 2016 and 2031 through ensuring that development does not undermine the supply of self-contained housing – in particular family homes and resisting development that would result in the net loss of residential floorspace or family units. The proposal is contrary to this

requirement and will result in the net loss of a self-contained potential family home. The fact that the premises are currently in use as an HMO does not, in my view, justify attaching less weight to the protection of its potential use as a family dwelling, particularly when the lawfulness of the current HMO use is contested. While I acknowledge the appellant's view that the appeal scheme aligns with the Council's overarching policy objective of fostering mixed and balanced communities, I have not been presented with evidence demonstrating how this will be achieved through the proposal.

5. While the proposal would create additional bed spaces within an existing unit, it would not result in a net increase in housing units within the borough. Therefore, I do not agree that the scheme would contribute to the borough's net housing supply targets. Any increase in non-self-contained accommodation must be balanced against any loss of self-contained accommodation, which would occur in this instance.
6. Local Plan Policy D.H7 sets out six criteria under which HMOs may be supported. While there is recognition of increasing demand for HMOs in the borough, the appellant has failed to demonstrate a need for this HMO in the location, as required by the policy's supporting explanation. Reference to an enforcement history at the premises relating to HMO use does not in my view indicate need for HMO development in this location as required by Policy D.H7(1a). I do not have information before me to indicate need for the proposed development in this specific location. Therefore, I consider the proposal does not accord with Policy D.H7(1a) of the Local Plan.
7. The proposal would result in the loss of a dwelling suitable for family occupation, which is contrary to the Policy D.H7(1b) objective of preventing such loss. Additionally, no evidence has been presented to demonstrate that the proposal would contribute to the long-term supply of additional low-cost housing. The assertion that HMO accommodation is inherently low-cost housing does not, in my view, satisfy the requirements of Policy D.H7(1c), which stipulates that new HMOs will be supported where they can be secured as an additional supply of low-cost housing or affordable housing.
8. Furthermore, the appeal site is situated in an area with a moderate Public Transport Accessibility Level (PTAL) of 3 and therefore does not meet the policy requirement for high transport accessibility (PTAL of 5 or 6). I am therefore not satisfied that this is a location with high transport accessibility are required by Policy D.H7(1d).
9. I find no evidence to suggest that the use of the premises as a large HMO would result in amenity impacts on surrounding neighbours. I also find no evidence that the proposal would be contrary to relevant housing space and safety standards. The fabric of the premises is of a good standard and condition. In this regard, I find no conflict with Policy D.H7 (1e and 1f). As a result, the proposal fails to adequately satisfy four of the six criteria outlined in Policy D.H7.
10. As noted above, while I recognise that the current use of the premises is as a HMO, there is disagreement whether this use is lawful. I do not consider that seeking to resist the loss of this HMO use, unless replacement shared facilities housing is provided, as is required by Policy D.H7(2b), can be justified as a reason carrying weight when seeking permission for change of use from a dwelling (Use

Class C3) to an HMO (Sui Generis). This is until such a time as the claimed existing lawful use of the premises as an HMO (Use Class C4) is established, which as noted, is not within the scope of this appeal.

11. Two other planning decisions have been brought to my attention, including an appeal decision. I have reviewed the information provided in respect of Ref: APP/E5900/W/20/3250665. This was a significantly larger proposal that delivered 78 net additional HMO units, making a substantial contribution to the borough's housing supply. Unlike the proposal before me, this case did not involve the loss of housing suitable for family occupation.
12. With regard to the second example, Ref: PA/21/01350/NC, unlike in the current appeal there appeared to be agreement that the property had operated as an HMO for a sustained period. Furthermore, the situation in that instance relating to tenancies at the property was considered an anomaly at the time the Article 4 Direction relating to HMOs in the borough was introduced. There is no such agreement in the context of the current appeal.
13. The characteristic of each example is different, and therefore, it is not shown that any are directly comparable to the context of the appeal site before me. Hence, whilst these examples attract limited favourable weight, they do not, either individually or cumulatively, lead me to a different view on the specific merits of this case.
14. For these reasons, I find that the proposal would result in the loss of a large family-sized dwelling, for which there is an evidenced need, and the proposal has failed to demonstrate compliance with the criteria whereby HMOs may be permitted. Consequently, the proposal would not accord with Policies S.H1 and D.H7 of the Tower Hamlets Local Plan 2031 (2020). Amongst other things, these policies seek to ensure that development responds to the identified need for different types of housing and prevent the loss of a large family-sized dwellings.

Other Matters

15. My attention has been drawn to several policies in the Local Plan that are deemed to support the proposal. Among other considerations, Policy H8 states that the loss of existing housing should be replaced by new housing at the same or higher densities, with at least an equivalent level of overall floorspace. Policy H9 stipulates that boroughs should take into account the role of HMOs in meeting both local and strategic housing needs and that, where they are of a reasonable standard, they should generally be protected. Policy H10 requires decision-makers to consider the need to deliver a range of unit types. Finally, Policy D3 encourages development that optimises residential capacity. While these policies carry some limited weight in my consideration of this appeal, they do not override my conclusions regarding the main issue detailed above.
16. I have considered the statements regarding the number of licensed HMOs in the area. However, in the absence of detailed data on their precise distribution, it is not possible to determine the potential cumulative impact of additional HMOs within the immediate locality of the appeal site. As a result, this information carries limited weight in my determination of the appeal.

Conclusion

17. For the reasons given above, the proposal conflicts with the development plan considered as a whole and there are no material considerations that outweigh this conflict. Therefore, the appeal is dismissed.

F P Tinsley

INSPECTOR