Planning Inspectorate

Appeal Decision

Site visit made on 4 February 2026

by S Burch BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February2026

Appeal Ref: APP/C5690/W/25/3376331
3 Doggett Road, Lewisham, London, SE6 4PZ

- 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 Bal Kanda of iaspire against the decision of the Council of the London Borough of Lewisham.
- The application Ref is DC/25/139472.
- The development proposed is for alterations and conversion of existing HMO into 5 self contained flats, together with the construction of an storey extension to basement and ground floors at the side to the rear, installation of 2 roof lights in the roof slope and the enlargement of window in the north east elevation.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development used in the heading above from the submitted appeal form. This clearly describes the development proposed. It is also used in the Council's decision notice.

3. Planning decisions must be based on the development plan policies prevailing at the time of determination. The Council has recently adopted the Lewisham Local Plan (LLP). As a result, the LLP now forms part of the development plan. It has replaced the Lewisham Core Strategy and Lewisham Development Management Local Plan, which are cited in the reasons for refusal. The main parties have had the opportunity to comment on the relevant policies of the LLP through the appeal process.

4. During the appeal proceedings the appellant has provided a revised plan which utilises space in the property's eaves on the second floor to provide storage space for flats 4 and 5. They have also provided an amended flood risk assessment. This relates to the appeal property, and neighbouring properties and sets out that the proposed development would be for the construction of nine flats and two business units, amongst other things. It includes a review of the flood risk and sets out a series of mitigation measures and recommendations.

5. I do not consider that the revised plan introduces a fundamental change or substantial difference to the scheme. I also do not consider that it is so changed that to consider it would deprive those who should have been consulted, of the opportunity of such consultation. I have therefore based my decision on the revised plan. However, the amended flood risk assessment includes neighbouring properties and a substantially different scheme. It is therefore clear that the amended report involves substantial differences to the application. In this case, it is

my view that the appeal must be determined on the basis of the flood risk assessment as originally submitted to the Council and upon which it based its decision, and which has been subject to consultation. To do otherwise would prejudice the interests of the Council, interested parties and consultees, who have not been consulted on the amended assessment, under this application, and who may have observations to make.

Main Issues

6. The main issues are:

- whether the proposed development would provide acceptable living conditions for future occupiers, with regard to the provision of internal space, outlook from the second-floor bedrooms and private outdoor amenity space; and
- whether the site is a suitable location for the development having regard to flood risk.

Reasons

Living conditions

Internal space

7. The Council's specific concerns relate to the internal floor area of flats 4 and 5, and the lack of storage for all flats. With regards to the internal floor area, Policy D6 of the London Plan (LP) requires a one bed, two-person, two storey dwelling to have a minimum gross internal floor area of 58 square metres (sqm), with 1.5sqm of built in storage. It requires a two bed, three-person, two storey dwelling to have a minimum gross internal floor area of 70sqm, with 2sqm of built in storage.

8. Flat 4 would measure 58sqm, including the storage area as indicated on the revised plan. The appellant suggests that it would measure 62 sqm, however Policy D6 clearly states that where an area is used solely for storage and has a headroom of 0.9 metres to 1.5 metres, as is the case with this storage space, it can only be counted up to 50% of its floor area. Nonetheless, it would still meet the requirement for a flat of this size, as set out in the LP.

9. Flat 5 would measure 67sqm, including the storage area as indicated on the revised plan. As mentioned, storage space under a certain height, as is the case in flat 5, can only be counted up to 50% of its floor area. This flat would therefore fall under the 70sqm required by Policy D6 of the LP.

10. The Council raises concerns that none of the flats would provide storage space. However, Policy D6 states that built in storage areas are included in the overall gross internal area. Given this, I see no reason why the submission of details of such storage could not be ensured through a planning condition, if the appeal were to be allowed.

11. To conclude, flats 1-4 would meet the minimum gross internal floor area, as required by the LP. However, flat 5 would fail to meet the required amount and would therefore provide substandard living conditions in this regard. Notwithstanding this, I am satisfied that if the appeal were to be allowed, details of built in storage could be ensured through a planning condition.

Outlook

12. The bedrooms on the second floor, serving flats 4 and 5, would be served by a rooflight, offering views of the skyline. However, given the use of the bedroom, it would likely only be used during certain hours of the day, with occupants using other rooms such as the living and kitchen areas at other times of the day. The other habitable rooms in the flats are dual aspect and offer acceptable standards of outlook. My attention has also not been drawn to any adopted policy which requires all habitable rooms to be provided with outlook from a standard window or prohibits the use of rooflights instead of standard windows in habitable rooms. Given the above, I do not consider the outlook from the second-floor bedrooms of flats 4 and 5 to result in material harm to the living conditions of future occupiers.

Private outdoor amenity space

13. There is existing external space to the rear and side of the property. It can reasonably be assumed that this would be made available to future occupiers of the proposed flats. Policy D6 of the LP requires 5sqm of private outdoor space for 1-2 person dwellings, and an extra 1sqm for each additional occupant. Approximately 27sqm of private outdoor space would therefore be required for the development. Based on the evidence before me, it does not appear that the scheme would provide this.

14. Additionally, the amenity space to the side of the property is situated in a narrow alleyway between the side wall of the appeal property and the neighbouring dwelling. Given its positioning, and the shape of it, I do not consider that it would be overly practical for sitting outside, socialising etc and therefore it would be unlikely to offer a good standard of amenity. Additionally, bins and cycle storage are not shown on the submitted plans, however the appellant outlines how they would be provided in the external amenity space. This would reduce the space available for future occupiers for sitting outside, relaxing and socialising etc.

15. I am not satisfied that a landscaping condition could overcome this issue, given my concerns relate to the amount and practicality of external amenity space. Whilst there are various parks and outdoor spaces nearby, this in itself does not justify noncompliance with planning policy. Therefore, based on the evidence before me, I am not satisfied that the scheme would provide adequate private outdoor amenity space.

16. To conclude on the main issue, I am satisfied that the outlook from the second-floor bedrooms of flats 4 and 5 would not result in material harm to the living conditions of future occupiers. However, flat 5 would fail to meet the required internal space standards. I am also not satisfied that the scheme would provide adequate private outdoor amenity space. As a whole, the scheme would not be in accordance with Policies QD1 and QD7 of the LLP and Policy D6 of the LP. Collectively, amongst other things, these policies seek to ensure high quality design that ensures acceptable living conditions for future occupiers. I do not find Policy SD7 of the LLP, which relates to flood risk, to be relevant to this main issue.

Flood risk

17. The appeal site lies predominately within Flood Zone 3, which is defined by the Planning Practice Guidance (PPG) as having a high probability of flooding from rivers and the sea. The scheme would include two studio flats located in the

basement. Annex 3 of the National Planning Policy Framework (the Framework) sets out that sites used for basement dwellings are *highly vulnerable* in areas of flood risk. The Guidance sets out that developments classed as highly vulnerable should not be permitted in Flood Zones 3a or 3b. Given this, the site would not be in a suitable location for the proposed development.

18. Additionally, the submitted FRA does not meet the requirements set out in the PPG or Policy SD7 of the LLP as it fails to adequately assess the flood risks posed by the development and provide sufficient details to demonstrate that the development would not be at, or increase, risks of flooding. There is also no site-specific Flood Emergency Response Plan before me, contrary to Policy SD7.

19. I am not satisfied that the above issues could be adequately mitigated by the use of a planning condition requiring details of flood defences. Firstly, such defences could involve substantial changes to the scheme, which may require consideration under a full planning application. Secondly, the Framework and PPG are clear that basement dwellings are incompatible development in Flood Zone 3. The site may be situated in a flood warning area, and the appellant contends that a flood warning plan could be secured by the use of a condition. However, given the nature of the basement flats, I am not satisfied that the residual risks could be safely managed through such measures.

20. Overall, I conclude that the location would not be suitable for the proposed development, having regard to flood risk. It would therefore conflict with Policies QD1 and SD7 of the LLP and Policy SI 12 and the LP. Collectively, amongst other things, these policies seek to manage flood risk and ensure that development proposals are designed to mitigate climate change. I do not find Policy QD7 of the LLP, which relates to amenity and the agent of change, to be relevant to this main issue.

21. Whilst specific paragraphs of the Framework mentioned by the Council in its refusal reason may not be relevant to this main issue, the scheme would be contrary to the Framework as a whole, for the reasons set out.

The fallback position

22. The existing 13 bed House in Multiple Occupation (HMO) benefits from a certificate of lawfulness and is already in operation. It is therefore an alternative to the proposed development and represents a fallback position.

23. Regarding living conditions, both main parties accept that the existing HMO is not high quality. Occupiers of the HMO currently share two small kitchens and 5 bathrooms and there is no communal living area. Whereas the proposed flats would all meet or exceed the space standards, apart from flat 5. The external amenity space is also shared by approximately 13 people at present. Under the proposed development, the external amenity space would be shared by up to 10 people. However, the scheme does seek permission for a small extension, which would slightly reduce the amount of external amenity space available. Nonetheless, based on the above, I consider that although the proposed scheme would be contrary to policy in this regard, it would be moderately less harmful than the fallback position. This carries significant weight and would outweigh the conflict with the development plan policies in this regard.

24. Turning to flood risk, the appellant contends that the proposal would offer a betterment in comparison to the fallback position, as it would reduce the number of households at risk from four to two, and add an additional stairway, amongst other measures. However, in the event of a flood, the existing occupiers would be able to seek refuge in the communal kitchens on the ground and first floor. They would also have access to bathrooms. Future occupiers of the basement flats could access the ground and first floor lobby areas in the event of a flood. However, in this scenario occupiers would be without kitchen or bathroom facilities. I am not convinced that this would be a safe option for future occupiers who would have no access to clean water or sanitation facilities during such an event. Based on the above, I therefore consider that the proposed scheme would be more harmful in terms of flood risk, in comparison to the fallback position. The fallback position therefore does not outweigh the conflict with the development plan policies in this regard.

25. Overall, the fallback position would outweigh the conflict with the development plan policies in relation to the living conditions of future occupiers. It would however not outweigh the conflict with development plan policies in relation to flood risk.

Other Matters

26. I acknowledge the appellant's concerns over the Council's handling of the application. However, my findings are unaltered on account of this because my focus in considering this appeal is the merits of the Council's decision.

27. The appellant has drawn my attention to a refused planning application for a 5-bed HMO at 86 Doggett Road (Ref: DC/25/140779). It was refused due to the overconcentration of HMOs in the Rushey Green area at a ward and immediate sub-ward level, which would be harmful to the character and amenity of the area, thereby detracting from the Council's aim to foster mixed, balanced and sustainable communities. The appellant therefore contends that the removal of a 13 bed HMO would enhance the character and amenity of the area and contribute to the Council's aim to foster mixed, balanced and sustainable communities. I accept that given this overprovision of HMOs in the area, the loss of the HMO would be a benefit of the scheme. However, this benefit would be tempered by the fact that it would only result in the loss of one HMO in the area, therefore any effect on the character and amenity of the area and housing mix would be limited.

28. The appellant alleges that the economic viability and continued use of the building is under threat, with various gaps in it's rental. They state this is possibly due to the lack of facilities and poor condition of the building. This scheme may ensure the continued use of the property. I afford this point some minor weight in favour of the appeal. Ensuring the economic viability of the property is however mostly a private benefit.

Planning balance

29. The evidence before me outlines how the Council is failing to meet the Housing Delivery Test, with housing completions at 32% of the target. This is a substantial shortfall. In such circumstances paragraph 11d) of the Framework indicates that where the Policies which are most important for determining the application are out-of-date, permission should be granted unless (i) the application of the policies of the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. This includes areas at risk

of flooding. Consequently, the presumption in favour of sustainable development does not apply in this instance.

30. The Framework seeks to significantly boost the supply of homes. The proposal would utilise a small site and may make a small contribution to housing supply in an area with excellent access to public transport facilities, services, parks and open spaces. However, it would also result in the loss of a 13 bed HMO. It would offer a betterment upon the existing living conditions and would provide some benefits in terms of removing an HMO in an area where there is an overprovision of HMOs. This may promote a more appropriate housing mix which could subsequently improve the character and amenity of the area. The scheme would be in accordance with various policies in this regard. However, any benefits of this would be tempered by the fact that it would only reduce the number of HMOs in the area by one. The scheme may result in investment into the property and ensure its continued use. The design may also promote fire safety and reduce pressure elsewhere on the housing stock and the provision of single person dwellings. The appellant contends that the energy efficiency of the building would be upgraded through the scheme, however the details on how this would be achieved are relatively limited. Overall, I afford these benefits moderate weight in favour of the appeal.

31. However, the benefits of the proposed development do not outweigh the harm in respect of flood risk, to which I attach significant weight.

Conclusion

32. The proposal would conflict with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be determined other than in accordance with it. Therefore, the appeal is dismissed

S Burch

INSPECTOR