



Appeal Decision

Site visit made on 17 March 2026

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2026

Appeal Ref: APP/C5690/W/25/3375931

137 Southend Lane, London SE6 3RP

- 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 Jagat Ramtahal against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/25/140514.
 - The development proposed is for the change the use of the 5-bedroom HMO (Use Class C4) to a 7-bedroom HMO (Sui Generis Use Class).
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. I have used an amended version of the description of development in the banner heading above. This has been taken from the Council's decision notice as that given on the original application form referred to a House in Multiple Occupation (HMO) licence and this is a separate legislative framework to what I am considering here. In addition, I have adjusted the Council's description of development to remove reference to the development being retrospective and the address as this is not an act of development.
3. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered into the form, and this matched the Council's description of development. Neither of the main parties provided written confirmation that a revised description of development has been agreed.
4. However, given that the Council undertook public consultation on the revised description, and notwithstanding the discrepancy on the appeal form, I am satisfied that there is no procedural unfairness as all parties, including third parties, will be aware of the description of development as it was assessed by the Council.
5. My discussion below and elements of the Council's decision notice and Officer Report (OR) indicate that there is some tension between whether the development is a 7 bedroom HMO or, in practice, it if resembles 7 studio flats. Although the description of development on the application form was not clear, it appears to me that both parties have approached the development on the basis that it would be an HMO. I have, therefore, considered the proposal on the same basis here. Whether or not this is the use that is occurring and/or is proposed is not a matter for me to consider here.

Background and Main Issues

6. The Council's decision notice expressed various concerns regarding the development although certain elements were not explicit in identifying material planning harm. I have therefore interpreted the Council's reason for refusal as read in conjunction with the OR. My interpretations on the main issues do not vary significantly from those of the appellant, as set out in the statement. Accordingly, I am satisfied that the relevant issues have been encapsulated and there is no prejudice to any party.
7. As such, the main issues are whether the proposal would result in the loss of a single family home and, if so, whether this would undermine housing choice, and, whether the proposal provides adequate shared facilities for the occupants.

Reasons

8. The Council have approached the proposal on the basis that the lawful use of the property is as a single family dwelling. Evidence supplied by the appellant indicates that an HMO licence was granted in November 2021 and this covers occupation by up to five persons. Normally, the conversion of a dwelling to a small HMO would benefit from deemed planning permission under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). However, in this instance, the Council made a Direction under Article 4 of the Order in March 2020. Whilst I have not seen this Article 4 Direction or advice that it was confirmed, this is not disputed by the appellant. The Direction, as explained to me, removed permitted development rights to convert dwellinghouses to HMOs without the express grant of planning permission from the Council.
9. The HMO licence post-dates the Article 4 Direction by approximately 18 months. No evidence has been supplied to indicate that occupation of the property as an HMO occurred prior to this, nor is there any evidence to indicate that the property was configured in such a manner before this date or let out to multiple occupants without the benefit of an HMO licence.
10. There is a comparison here with an appeal decision at 5 Sherborne Grove¹ however this case differs substantially as the dates of licencing the premises and the Article 4 Direction being confirmed were far closer. Moreover, at Sherbourne Grove, the appellant was able to demonstrate that the physical works to the property were completed well in advance of the Article 4 Direction and that is not the case here. A Certificate of Completion² is the only evidence of physical works being undertaken for the appeal site and this is dated March 2025, having been lodged in April 2024, well after the HMO licence was granted. Not only this, but there is no evidence to suggest that any marketing of the property occurred prior to the Article 4 Direction coming into force.
11. Whilst it is not my role to confirm what the lawful use of the property is, it is a requirement for me to make an informed decision, on the balance of probability, as this affects the planning merits of the case. From the evidence before me it does appear that the lawful use of the property is as a single dwellinghouse falling within

¹ APP/P4605/X/21/3268431

² Unreferenced, dated 13 March 2025

Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

12. Policy HO8 of the Lewisham Local Plan (2025) (LLP) sets out the circumstances where HMOs will be permitted. As the proposal is for a large HMO with 7 rooms, the provisions of policy HO8 A apply and these set out, in summary, that proposals will be acceptable where they do not result in the loss of an existing house suitable for family occupation. This is considering its location within a residential street, its size and layout and availability of amenity space; where they would contribute to inclusive and mixed communities, are appropriately located in areas that are well connected to public transport and are well designed to provide high quality accommodation.
13. The provisions of policy HO8 B of the LLP do not apply as I have not considered the use of the property as a small HMO to be lawful for the reasons I have explained above. Moreover, the application form indicates the floor area of the property is 90 square metres and therefore, even if the use of the property as a small HMO were lawful, it would conflict with policy HO8 B a. This sets a minimum floor area of 130 square metres.
14. The existing property has clearly had internal works undertaken to it to enable it to function as an HMO. Even so, it is within a residential street, has a size and layout that could function as family accommodation and access to a generous rear garden. Therefore, considering policy HO8 A a. of the LLP it would be suitable for family occupation.
15. The Council has referenced the Lewisham HMO Review and Evidence Paper (LHMOREP), although a copy of this was not provided, which identifies this area as having 5 to 7.5% of properties being occupied as HMOs. The LHMOREP considers a 10% concentration to be the threshold for negative impacts, leading to unbalanced communities. Accordingly, I am unable to conclude that this proposal would lead to an unbalanced community.
16. The site is within an area with a Public Transport Accessibility Level (PTAL) of 2 indicating relatively low levels of accessibility. Even so, there is reasonable access to buses and a mainline train station. No indication of waste or recycling management facilities or where these would be located has been provided and the same applies to cycle parking. Nevertheless, there is some limited space for these in the front garden and ample space in the rear garden. A condition could secure these details were permission to be granted although care would invariably be required in securing their provision to avoid adverse impacts on the occupants or to those of neighbouring properties.
17. Turning to policy HO8 A d. of the LLP, the accommodation proposes 7 largely self-contained units of accommodation. These would be fitted out with small kitchenettes and feature en-suite toilet and shower facilities. The Council confirms that the rooms are all a sufficient size to meet local licencing standards.
18. There are, however, minimal shared facilities. These amount to a small utility area in the front porch, a shared shower room on the first floor and an approximately 4 square metre room on the top floor. There are no shared kitchen facilities or any reasonable sitting or dining area. Moreover, two of the bedrooms are only accessible externally. The lack of shared spaces for preparing meals or other

communal living means that the residents are most likely to be isolated to their rooms and confined to using the basic facilities provided within these.

19. The development would provide neither family accommodation as a dwellinghouse nor satisfactory living standards as an HMO and this undermines housing choice. The proposal therefore conflicts with policies HO8 A a. and d. and QD6 of the LLP, policies GG1, GG2 and H9 of the London Plan (2021) (LP) and National Planning Policy Framework (the Framework) insofar as it results in the loss of existing housing suitable for family occupation and does not offer high quality accommodation that provides adequate functional living spaces and layouts.
20. I accept that the property has been licensed as an HMO and has Building Regulations approval. These, however, are separate legislative frameworks and whilst there is some overlap between them, they do not necessarily address the same matters as those to be considered here. The support of charitable organisations is relevant but does not indicate that the standards of accommodation meet development plan requirements.
21. Equally, I do not accept that returning the property to a single family dwelling would represent an inefficient use of space. Indeed, the size and general layout of the property would be conducive to a three bedroom family home. Whilst it may provide accommodation for single person households or homeless people, this is not a good reason to provide substandard accommodation to these vulnerable groups or those that may possess protected characteristics as a consequence of their housing situation.
22. I have further considered the appeal decision cited at 164 Kingston Road³ where it was opined that a change from six to seven persons was not material change in the character of the use. There is a distinct difference here, specifically that it is not established, in this instance, that the existing use of the property is lawful and the change of use would, therefore, be from a dwelling to a large HMO.

Other Matters

23. I am mindful of the views of local residents that were expressed in relation to the appeal. These have raised concerns regarding a proliferation of rubbish and increased pressure on car parking. Whilst I accept these comments, I am unable to draw any direct reference between the litter in the area to this property. Likewise, there is no evidence before me to suggest that this HMO would have a materially different demand for vehicle parking than a single family dwelling.

Conclusion

24. The proposal would result in the loss of housing suitable for family accommodation and result in substandard HMO rooms with inadequate shared facilities. The proposal therefore conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

N Bowden

INSPECTOR

³ APP/W5780/W/20/3263096