
Appeal Decision

Site visit made on 1 September 2016

by M Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 September 2016

Appeal Ref: APP/W4223/W/16/3144246

Yew Tree Residential, Sycamore Avenue, Chadderton, Lancashire, OL9 8BQ

- 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 Tariq Mushtaq (on behalf of Equinox Developments Ltd) against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/337269/15, dated 9 July 2015, was refused by notice dated 18 September 2015.
 - The development proposed is the change of use of the care home to a house of multiple occupation, a single storey rear extension, and a rear dormer (resubmission of application ref. PA/335769/14).
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Procedural Matters

1. The appellant identified the description of the proposal on the application forms to be the *conversion of former Yew Tree Care Home to a HMO living accommodation including small ground floor lounge extension*. The Council has identified the proposals in a slightly different format, but has also included reference to the resubmission of proposals for a rear dormer. Whilst this varies from the appellant's description, it is evident from the Grounds of Appeal that the revised description of development has been accepted by the appellant in light of their adoption of the same. This is therefore also the basis upon which I have made my decision.
2. During the course of the planning application, amended plans were submitted to remove references to the provision of parking on the public highway to the front of the building. The Council determined the planning application on the basis of these plans, and my decision will also be based upon the revised plans.

Decision

3. The appeal is allowed and planning permission is granted for the change of use of the care home to a house of multiple occupancy, a single storey rear extension, and a rear dormer (resubmission of application ref. PA/335769/14) at Yew Tree Residential, Sycamore Avenue, Chadderton, Lancashire, OL9 8BQ in accordance with the terms of the application Ref PA/337269/15, dated 9 July 2015, and subject to the conditions as set out within the annex.

Background and Main Issues

4. I note that the application report to the Council's planning committee indicated that the land use principle of the proposed change of use was in accordance with the policies of the Oldham Local Development Framework Development
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Plan Document – Joint Core Strategy and Development Management Policies 2011 (the Oldham DPD), subject to amenity and highway considerations. I also note that the report to planning committee recommended approval, the reason for refusal set out in the Council's Notice of Decision indicates that, by reason of vehicular access to the site and expected traffic generation from the use, that there will be a detrimental effect on highway safety and residential amenity. Whilst the reason for refusal does not specify which aspect of residential amenity would be injured by the proposals, I am satisfied that the reference to traffic generation in this context must therefore equate to concerns over noise and disturbance from movements associated with the proposed use. On this basis, the main issues are therefore;

- the effect of the proposed development on highway safety, having regard to traffic generation and parking provision; and,
- whether the proposed development would safeguard the living conditions of neighbouring occupiers, having regard to noise and disturbance from the means of access to the appeal site, and impact on privacy.

Reasons

Highway safety

5. The appeal site is comprised of a large two-storey detached building formerly occupied as a care home, which essentially occupies a backland location being surrounded by existing residential development. Access is gained on foot along paths and public rights of way from Sycamore Avenue, Long Lane, and Argyll Road, with vehicular access to the appeal site also available from Argyll Road along an un-adopted track. The proposed layout plan indicates the provision of four car parking spaces within the curtilage of the appeal site.
6. The Council's Traffic Section assessed the proposed development during the course of the planning application, and concluded that the appeal site is located within a sustainable location, with good access to a wide range of amenities, excellent links to public transport, and opportunities for walking and cycling. I would agree with this conclusion. It was also acknowledged that the access to the appeal site is as existing, and that the nature of the proposed HMO use would be unlikely to attract a large number of car owners, with traffic generation anticipated to be at a lower level than for the residential home or other permissible uses within the same class. As a consequence, whilst the use of a condition securing the provision of the proposed car parking spaces has been suggested, no objection was raised by the technical consultee to the proposed change of use. On the basis of the evidence placed before me, I am also satisfied that the conclusions in respect of traffic generation and car ownership are reasonable, and that as a consequence the level of parking to be provided would be acceptable.
7. The Council drew my attention at the site visit to the route which vehicles accessing the site would take from Argyll Road, as well as the relatively poor condition of the surface. I also noted the available visibility from the junction between the access and Argyll Road as well as the general levels of parking within the area.
8. It is clear that the surface condition of the access is comparatively poor, but this would have been the same access that would have been in use by the

previous occupation of the site as a care home, as well as for a means of access to the garages to the rear of properties on Argyll Road and Sycamore Avenue. In light of how the appeal property could be lawfully occupied, I am satisfied that a reduced level of vehicular traffic in connection with the anticipated levels of car ownership for the HMO would also be acceptable in the context of the condition of the existing access. I carefully considered the available visibility at the access on to Argyll Road, but even though I noted the existence of on-street parking in the vicinity of the access, I judge the visibility to be acceptable in the context of the character of Argyll Road.

9. I note that interested parties have raised further concerns in respect of the available capacity for further on-street parking, the means of manoeuvring in and out of the appeal site, and the continued maintenance of the un-adopted road.
10. In respect of on-street parking, within surrounding streets there was a reasonable level of unrestricted on-street parking at the time of my visit, but I also observed that many properties possessed available off-street parking. Whilst I do not doubt that surrounding streets would have the potential to exhibit higher levels of on-street parking at busier times of the day, given the accepted character of likely car ownership related to the HMO and the generally sustainable location of the premises, I am not persuaded on the basis of the evidence before me or my own observations that any additional parking demand would be likely to result in an unacceptable impact on existing levels of on-street car parking.
11. I have carefully considered concerns which have been expressed in respect of the impact on the safety of pedestrians passing the site, and children playing on the adjacent grassed area, as a consequence of documented instances of vehicles leaving the appeal site and utilising the adjacent path to complete their manoeuvres. I accept that such instances would have the undesired effect of bring vehicles and pedestrians into conflict, but note that the parking layout shown on the proposed plans indicates the provision of a turning area within the site precluding the need for such manoeuvres to be undertaken on the footpath. Furthermore, the un-adopted road appeared well defined with the use of kerb stones in part clearly delineating it from the adjoining grassed area, and I do not consider there to be a reason why the impact on safety and security would worsen from if the premises were occupied on the basis of their lawful use. I am satisfied in light of this, and the securing of the parking and turning layout by condition, that this would satisfactorily address this matter.
12. The issue of the continued maintenance and impact of use on the un-adopted road has also been raised as a concern, with it expressed that local residents have at their own expense maintained the condition of the road surface. Whilst I have had regard to this and the contention that the damage has been caused by access to the appeal premises, there is no evidence to suggest that the appeal premises does not possess a right of access across the un-adopted road. In this respect, it would seem that the burden of any future maintenance of the un-adopted road would need to be borne by all users, but that ultimately this would be a private matter to be resolved by the parties, and which would not therefore have any bearing on the determination of this planning appeal.
13. On the basis of my observations and the evidence submitted, I am satisfied that the proposed development would not result in an unacceptable effect on

highway safety as a consequence of traffic generation or parking. As a consequence, the proposals would accord with policies 9 & 11 of the Oldham DPD, which ensure that local environmental quality and amenity is not compromised by development or HMOs, by seeking to minimise traffic levels and protect the safety of road users.

Living conditions

14. On the basis of the submissions placed before me, and in particular the representations from interested parties, it is evident that the principal concern relates to the potential for noise and disturbance from movements associated with the proposed use, and the consequent effect on the living conditions of neighbouring occupiers. In this respect, I am mindful that whilst the proposed use of the appeal premises would undoubtedly result in a change from the existing situation since the cessation of the occupation of the site as a residential care home, for the reasons I have already set out in terms of the highway impacts of the development, I am not persuaded that there would be an increase in traffic generation, as has been contended. With regards to the frequency of access for delivery vehicles, refuse trucks, and emergency vehicles, it would also be my assessment that there would be a likely overall reduction given the change in nature of the occupation of the premises from that of a care home.
15. I have also had regard to the concern that the proposed development would result in the potential for overlooking and loss of privacy from upper windows. However, the only additional windows proposed to upper floors relate to bathrooms, which are shown to be permanently glazed in obscure glass. Furthermore, I would agree with the Council's assessment that the residential aspect of the occupation, whether as a care home or an HMO, would not result in an alteration to existing levels of overlooking or privacy. I am also satisfied that as a consequence of the scale and position of the proposed single-storey extension there would not be a resultant adverse impact on levels of light afforded to neighbouring occupiers.
16. I am satisfied that the proposed change of use would adequately safeguard the living conditions of neighbouring occupiers, having regard to noise and disturbance and privacy. The proposal would therefore accord with policies 9 & 11 of the Oldham DPD, which seek to ensure that development does not cause significant harm to the amenity of neighbouring occupants through noise or impacts on privacy.

Other Matters

17. Interested parties have raised several other concerns, including the arrangements for refuse collection, the potential for crime and anti-social behaviour, and the impact on property values. In respect of the collection of refuse, I note that an area has been set aside for waste bins within the proposed layout, but also that the full details of refuse and recycling would be secured through the imposition of an appropriate planning condition. Whilst I have had regard to the concerns of neighbouring occupiers over the means of collection, I have not been provided with any plausible reason as to why adequate arrangements for refuse and recycling could not be provided, particularly in light of the servicing of the previous use of the premises.

18. Whilst I have had regard to concerns raised over matters relating to anti-social behaviour and an adverse impact on property values, I do not have any detailed or conclusive evidence before me that the proposed development would result in such matters transpiring.
19. I have recognised the strength of local opposition to the proposed development, including the submission of a petition of objection to the proposals. However, this would not in itself warrant the dismissal of the appeal. Furthermore, whilst I have noted the concerns in respect of procedural matters relating to the planning application and how the Council dealt with it or publicised it, I do not consider this to be a matter which is particularly relevant and has not therefore had any significant bearing on my determination of the appeal.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed subject to the conditions listed.

Conditions

21. Turning to the suggested conditions, I have considered these in the light of paragraph 206 of the Framework. This paragraph sets out that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.
22. Condition relating to timeliness and the identification of plans are necessary in the interest of proper planning and the avoidance of doubt. A condition securing the provision of obscure glazing to windows would be in the interest of protecting the living conditions of occupiers of neighbouring properties, whilst a condition securing soundproofing within the appeal property would safeguard the living conditions of future occupiers. The use of matching materials for the external surfaces of the proposed development would be in the interest of the character and appearance of the building and the area, whilst the provision and approval of details related to refuse and recycling would also protect the living conditions of occupiers within the surrounding area.
23. Further to the comments of the Local Highway Authority, I have added a condition to secure the proposed parking and turning on the appeal site, as indicated on Drawing no. 15055-10 Rev. B, in the interests of highway safety.

M Seaton

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be fully implemented in accordance with the approved plans and specifications received 10 July 2015, which are referenced as follows:

Drawing No. 15055-10 Rev. B;
Drawing No. 15055-11;
Drawing No. 15055-12;
Drawing No. 15055-16;
Drawing No. 15055-17 Rev. B;
Drawing No. 15055-18 Rev. A

Unless otherwise agreed in writing by the Local Planning Authority.

- 3) The development hereby permitted shall not be brought into use unless and until the proposed windows shown annotated as W8, W9, W13, W20, W21, W24, W25, W30, W31, W35, W36 and W37 on Drg. Nos. 15055-10 Rev. B and 15055-11 received 10 July 2015 shall be provided with and permanently glazed in obscure glass at a minimum level of No. 5 as shown in the Pilkington five levels of obscuration privacy.

There shall be no alterations to the window openings or the level of obscurity to the glazing in that elevation without the prior written approval of the Local Planning Authority.

- 4) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 5) No development shall take place unless and until a scheme to soundproof the walls and ceilings to all bedrooms has been submitted to and approved in writing by the Local Planning Authority and all such works that form the approved scheme shall be completed before the HMO is brought into use and shall be retained at all times thereafter.
- 6) The development hereby permitted shall not be brought into use unless and until details of facilities for the storage and removal of refuse and waste materials have been submitted to and approved in writing by the Local Planning Authority and the agreed scheme has been fully implemented. Thereafter approved facilities shall at all times remain available for use.
- 7) Before first occupation of the House of Multiple Occupation (HMO), the parking spaces and turning space shown on approved Drg. No. 15055-10 Rev. B shall be completed in accordance with the approved details. The areas for parking and turning and the access shall be kept available for their intended purposes at all times.