

Appeal Decision

Site visit made on 6 September 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 3rd October 2016

Appeal Ref: APP/A4710/W/16/3152991

**Stafford Manor Care Home, 1 Stafford Avenue, Halifax, Calderdale
HX3 0NR**

- 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 Brian Vincent against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 15/00858/FUL, dated 26 June 2015, was refused by notice dated 15 April 2016.
 - The development proposed is described as application for the change of use from a care home to a house of multiple occupancy (C4 to C2).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from Care Home (C2) to a large house in multiple occupancy (Sui Generis) at Stafford Manor Care Home, 1 Stafford Avenue, Halifax, Calderdale HX3 0NR in accordance with the terms of the application, Ref 15/00858/FUL, dated 26 June 2015, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Brian Vincent against Calderdale Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council changed the description of Ref: 15/00858/FUL from that provided on the planning application form to 'the change of use from Care Home (C2) to a large house in multiple occupancy (Sui Generis)'. This is a more accurate description of the development which I have used in this appeal.

Main Issues

4. The main issues are:
 - The effect of the proposed change of use on the living conditions of the occupants of neighbouring buildings with particular regard to noise and disturbance.
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- Whether the proposed change of use would provide adequate living conditions for the future occupiers of the building having particular regard to accommodation and amenity space.

Reasons

Living conditions – occupants of neighbouring buildings

5. The appeal property comprises a large three storey detached building set in relatively large grounds which was formerly used as care home and is located within the Savile Park Conservation Area. Stafford Avenue is a cul-de sac with a mix of residential properties. In particular, a four storey block of 20 apartments (Copperfield House) is located immediately to the east, a care home (Fernside Hall) to the north, a terrace of residential properties to the south and a bowling club (Stafford Bowling Club) to the west.
6. The remainder of Stafford Avenue comprises detached, semi-detached and terraced dwellings with apartments at the head of the street approximately 100m to the west comprising Knightsbridge Court (24 apartments) and Fern Cottages (15 apartments).
7. The appeal property currently has 21 single bedrooms. The proposed change of use seeks to increase the number of bedrooms with ensuite facilities over three floors with recreational areas, additional bath and shower rooms and facilities for cooking in several areas being provided. The appellant indicates that the proposed change of use to a house in multiple occupation (HMO) would increase the number of bedrooms to 22 with upgrading of internal facilities to increase the number of rooms with showers. No external alterations to the building are proposed.
8. The officer's report indicates that the nearest HMO to the appeal property is over 230m to the north and consequently I do not consider that the appeal proposal would result in an over concentration of HMO's in the area. I agree with the appellant that the residential context of the neighbouring locality is quite mixed and has a high density with several properties being converted to, or redeveloped as, flats. Therefore the intensive occupation of properties is part of the established character of the area.
9. The appeal property is set within relatively large grounds which in my view provide adequate separation to neighbouring properties. Although the occupation of HMOs may generally be more transient in nature than C3 dwellinghouses, I have not been made aware of any technical evidence that indicates that this causes a specific issue within the immediate locality. In my view, the appeal building is relatively contained within its grounds and its occupation as an HMO would not be inconsistent with the residential density of the area.
10. The Council is concerned that the use of the appeal building as a HMO would give rise to noise and disturbance that could harm the living conditions of nearby residents. This concern appears to be based upon a general position that occupiers of HMO's could create noise and disturbance above that of other residents. However, in this case there is no technical evidence before me that indicates that there is a particular proliferation of such problems within this area. As such, there is no substantive basis to conclude that the provision of a

HMO in this case would necessarily result in a material nuisance or demonstrably harm the living conditions of the occupants of nearby properties.

11. Taking the above factors into account, I do not consider that the proposed change of use would cause demonstrable harm to the living conditions of the occupants of neighbouring buildings with particular regard to noise and disturbance. As such, there would be no conflict with Policy H16 (i.c.) of the Replacement Calderdale Unitary Development Plan (amended 2009) (RCUDP). This policy, amongst other things, is generally supportive of the use of a building as a HMO where there would be no harm to the amenity of the occupiers of neighbouring buildings.

Living conditions - occupants

12. The Council considers that the proposed change of use would not provide an acceptable standard of residential amenity for future residents by reasons of the constrained size and nature of bedrooms and a lack of adequate facilities and amenity space.
13. However, I have no evidence of whether the Council has any adopted internal space standards relevant to planning considerations of proposals for HMO's. The building was previously used as a care home and the proposed internal layout is not dissimilar to this former use in terms of bedroom layout. I observed at my site visit that whilst there are variations in bedroom sizes none appear to be unacceptably constrained or restricted and all have adequate outlook and daylight. I also note the appellant's view that each bedroom would adequately meet the standards for HMO's in terms of licensing. The proposed layout provides for dining and lounge facilities on the ground floor and there are adequate external garden areas.
14. Whilst I recognise that the size of accommodation would not be of an extent that would be found in an apartment or dwelling, nonetheless the Council's Housing Officer recognises that the demand for HMO's has increased and that they have a role to play in meeting the District's future housing requirements.
15. In this case I have no demonstrable evidence to suggest that there is any discernible difference between the bedroom size for persons occupying the building as a care home and those occupying it as a HMO.
16. In the absence of any space standards or other demonstrable evidence to suggest that the size and arrangement of the internal accommodation is inadequate I consider that the proposal would provide an acceptable standard of residential amenity. Consequently, there would be no conflict with Policy BE2 of the RCUDP. This policy, amongst other things, requires the provision of adequate privacy, daylighting and private amenity space for prospective residents of the building.

Other matters

17. A number of appeal and planning decisions have been cited by both parties. I do not have the full details of the context of those schemes. Furthermore, they appear to relate to different developments, on different sites and in different districts or boroughs and as such I cannot be certain that they are representative of the issues in this case. In any event, it is well-established planning practice that each application is considered on its own merits, as I

have done in this case. These examples do not therefore alter my overall conclusions on the case before me.

18. Although the site is located within the Savile Park Conservation Area, the submitted Heritage Statement demonstrates that there would be no external alterations to the building with frontage parking being retained. Consequently, the proposal would not have any impact on the character or appearance of the conservation area.
19. I have taken into account the relationship of the site to the adjacent bowling club. Whilst I recognise the quietness of the surroundings of the bowling club, given my findings above I do not consider that there is any demonstrable evidence to suggest that the proposal would harm the ambiance currently enjoyed by members of the bowling club.
20. I have also taken into account the concerns of local residents regarding additional on street car parking demand that may be generated by the proposals. However, in my view the appeal site is located in a sustainable location close to Huddersfield Road which appears to be well served by bus routes. In such a sustainable location I do not consider that a high level of car ownership is likely. I also note that the Council's Highway Network Manager considers that the proposed parking is adequate and is compliant with the Council's relevant policies relating to parking. Moreover, the Council did not cite a lack of parking provision as a reason for the refusal of planning permission. Consequently, the weight that I can attach to these concerns is limited.

Conditions

21. The Council has suggested two planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have amended some of them for clarity and eliminated some elements for the reasons set out below.
22. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. The refuse collection and recycling arrangements for the building are likely to be different for the HMO than was the case when the building was used as a care home. Consequently I agree that a condition is required to provide details of the arrangements for waste storage and collection.

Conclusion

23. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

1. The change of use hereby permitted shall begin not later than three years from the date of this decision.
2. The change of use hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Existing Floor Plan (Basement and Ground Floor Plan as existing) dated Feb 2016; Proposed Floor Plans, Parking Layout (Ref 1).
3. Prior to the first occupation of the building a scheme of the provisions to be made for the separate storage and collection of wastes, including recyclable wastes, arising from the development and compatible with the requirements of the Council's waste collection service, shall be submitted in writing to the Local Planning Authority for its approval. The scheme shall satisfy the requirements of British Standard 5906:2005 and shall account for;
 - Suitable location and provision of waste stores relative to all uses of the development hereby permitted. There shall be level accessways between waste stores and waste collection points, and unobstructed access for refuse collection vehicles to the waste collection points.
 - The design and construction of waste stores so as to minimise loss of amenity due to vermin, odour, flies and animal attack; and to provide sufficient space for different receptacles for the separate storage of recyclable and non-recyclable wastes.

The provisions shall be constructed in accordance with the scheme so approved prior to the first occupation of the development, and maintained thereafter.