

Appeal Decision

Site visit made on 27 September 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 19th October 2016

Appeal Ref: APP/V4630/W/16/3150779

92 Broadway North, Walsall, WS1 2QE

- 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 Zaheer Ali against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 15/1277, dated 17 August 2015, was refused by notice dated 25 November 2015.
 - The development proposed is the change of use from a house to a HMO for 8 people.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a house to a HMO at 92 Broadway North, Walsall, WS1 2QE in accordance with the terms of the application, Ref 15/1277, dated 17 August 2015, subject to the conditions contained within the Schedule attached to this decision.

Procedural Matter

2. I have used the description of the development as set out in the Council's decision notice. This is a more accurate description than that set out in the application form. In making the appeal the appellant has accepted this revised description. Accordingly, I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the development on the character and appearance of the area and living conditions of the occupants of neighbouring residential properties with regard to noise, disturbance and the fear of crime.

Reasons

4. The appeal property is a two-storey, semi-detached dwelling located within a predominantly residential area. At the time of my site visit the building was already operating as a House in Multiple Occupancy (HMO) for six people, which the Council confirms is permitted development. The current proposal is for an additional two occupants.
 5. Neighbouring properties are generally occupied as single family dwellings and from the evidence before me there is no indication of other HMO's within the vicinity of the site. The Council accept that HMO's serve a specific purpose; indeed, they make an important contribution to the housing supply, but they should be located in sustainable locations. However, there is no local or
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- national policy presented to me that prohibit HMO's from being located within established residential areas such as the appeal site.
6. Saved Policy H7 of the Walsall Unitary Development Plan (UDP) 2005, encourages proposals for HMO's, providing amongst other things, there would be no harm to the amenity of the occupants of neighbouring buildings or the intended occupiers of the proposed accommodations and there would be no harm to the character and appearance of the building or surrounding area.
 7. The occupation of the building by up to eight tenants would inevitably lead to increased comings and goings. However, the building is already occupied by six tenants. Whilst the addition of two tenants would increase the activity levels in the appeal property, and would result in additional coming and goings, I do not consider that the increase would be significantly greater than the levels that exist at present.
 8. Paragraph 69 of the National Planning Policy Framework (the Framework) states that planning policies and decisions should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. Vulnerability to and fear of crime are therefore material considerations in planning decisions. However, the weight that can be attributed to it is often limited unless there is significant evidence to show that the increased fear of crime would actually occur.
 9. The Council's concern centres on the level of noise and disturbance generated by the HMO and the fear of crime expressed by local residents. However, the Council does not present any specific evidence of the actual noise and disturbance caused in terms of noise level recordings, relying on the representations made by neighbouring residents regarding incidents of anti-social behaviour. I have had regard to these representations and appreciate the apprehension of the local residents. However, these incidents appear to relate to the behaviour of individuals rather than as a result of the use of the building. Such behaviour could equally be experienced if the building was occupied as a dwelling.
 10. Crime statistics have been produced by the West Midlands Police that show that over the last 12 months there have been 499 reported crimes in the Paddock Neighbourhood Beat Team area. However there is no firm evidence that such crimes would be attributed to by existing/future occupants of the appeal property or multi-occupied properties in general. Crime and disorder does not seem to me to be an inevitable consequence of HMO's as opposed to the single occupation of dwellings, but rather a question of individual behaviour and appropriate management.
 11. I also note that although West Midlands Police express concerns regarding HMO's in general, they do not object to the proposal. In light of this factor, and in the absence of any substantive evidence before me to the contrary, I am unable to conclude that the proposal would result in an increase of criminal activity or anti-social behaviour.
 12. I have regard to the recent appeal decision for the change of use of a former public house/restaurant to 15no bedsits¹. Whilst the specific details of the

¹ Appeal Ref APP/V4630W/15/3133405

development are limited and each case is considered on its own merits, I note the Inspector's similar findings to my own in that antisocial behaviour is not an inevitable consequence of HMOs.

13. I find therefore that the proposal would not significantly harm the character and appearance of the area or the living conditions of the occupants of neighbouring residential properties. As such, it would comply with saved Policy H7 of the UDP and the Framework's objective of promoting healthy communities.

Conditions

14. In addition to the standard implementation condition, it is necessary for the avoidance of doubt to define the plans with which the scheme should accord.
15. In the interests of public health conditions regarding waste storage facilities and drainage to the mains drainage system are required.
16. In the interests of the living conditions of the occupants of the property and neighbouring properties, a condition is necessary requiring the development to meet Secure by Design specification.
17. In the interests of highway safety a condition is required regarding boundary treatment to the front of the property to prevent unauthorised vehicular access and parking provision to the rear. In the interests of promoting sustainable forms of transport a condition is also necessary requiring the provision of cycle storage.
18. I have also had regard to a condition requiring tenants to sign a 'statement of general conduct'. However, such a condition would fail the tests set out in paragraph 206 of the Framework as it would not guarantee that tenants would behave appropriately. Furthermore, it would not be enforceable as the Council would not be aware of when new tenants would occupy the building.

Conclusion

19. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF 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 carried out in strict accordance with the following approved plans: Location Plan scale 1:1250, Ground Floor Plan, 1st Floor Plan and 2nd Floor Attic Plan.
- 3) Prior to the first occupation of the hereby approved HMO, details shall be submitted to and approved in writing by the local planning authority demonstrating that the development will meet Secure by Design specifications. The approved details shall be fully implemented prior to

the occupation of the hereby approved HMO and shall be retained at all times.

- 4) The disposal of surface water and foul sewerage shall be to the main drainage system only.
- 5) Prior to the first occupation of the hereby approved HMO, details of boundary treatment to prevent unauthorised vehicular access onto the hard standing area on the property frontage shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the occupation of the hereby approved HMO and shall be retained at all times.
- 6) Prior to the first occupation of the hereby approved HMO, the following details shall be submitted to and approved in writing by the local planning authority:
 - i) A parking area, with parking spaces measuring 2.4m x 4.8m at the rear of the property for the use of residents;
 - ii) A covered, secure cycle shelter for the use of residents; and
 - iii) A refuse/recycling storage area and collection point for the use of residents, positioned as close as possible to the public highway.The approved details shall be fully implemented prior to the occupation of the hereby approved HMO and shall be retained at all times.