
Appeal Decision

Site visit made on 28 September 2016

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 25 October 2016

Appeal Ref: APP/Y0435/W/16/3154857

5 Marshworth, Tinkers Bridge, Milton Keynes MK6 3DA

- 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 Henry Britton against the decision of Milton Keynes Council.
 - The application Ref 15/02945/FUL, dated 27 November 2015, was refused by notice dated 20 January 2016.
 - The development proposed is a change of use from a C3 to a C4.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a residential dwelling (use class C3) to house in multiple occupation (Sui Generis) with 7 lettable rooms at 5 Marshworth, Tinkers Bridge, Milton Keynes MK6 3DA in accordance with the terms of the application, Ref 15/02945/FUL, dated 27 November 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The party wall with the adjoining property shall be adapted so as to meet the sound insulation standard of a minimum value of 43dB. All internal partition bedroom walls and (where there is a habitable room above or below) bedroom ceilings and floors, must meet the sound insulation standard of a minimum value of 40dB. A noise assessment in accordance with British Standard 8233:1999 (Sound Insulation and Noise Reduction in Buildings) shall be submitted to and approved in writing by the local planning authority. The sound insulation works shall be completed before the use of the building begins and retained thereafter.
 - 3) The clothes drying area, amenity space, cycle and bin stores shall be provided before the use commences and shall thereafter be kept available for these purposes.
 - 4) The house in multiple-occupation hereby permitted shall not be operated with more than seven lettable rooms at any time.
 - 5) Before the use commences space shall be laid out within the site in accordance with drawing no. 1083/07 for 5 cars to be parked. The area shall thereafter be kept available at all times for the parking of vehicles.
 - 6) The development hereby permitted shall be carried out in accordance with the following approved plans: 1083/01, 1083/02, 1083/04, 1083/05, 1083/06, and 1083/07.

Preliminary Matter

2. The description above is taken from the application form, however, the Council amended the description to '*Change of use from residential dwelling (use class C3) to house in multiple occupation (Sui Generis) with 7 lettable rooms*'.
3. Class C4 includes small shared dwelling houses occupied by between 3 and 6 unrelated individuals who share basic amenities. Larger HMOs - those with more than 6 people sharing - are unclassified by the Use Classes Order and are therefore categorised as 'Sui Generis'. I have therefore assessed the proposal on the basis of the Council's description which more accurately describes the nature of the proposal.

Main Issue

4. I consider the main issue to be the effect of the proposal on the character of the area.

Reasons

5. The appeal property is a detached bungalow situated within a suburban residential area. The area has a spacious and sylvan character. The property has been divided into seven rooms, each with its own bathroom facilities. The kitchen and lounge would be shared between the residents. Although the alterations to the property are largely complete, the proposed use has not yet commenced.
6. Policy H10 of the Milton Keynes Local Plan 2001-2011 (adopted December 2005) states that permission will be granted for houses in multiple occupation (HMOs) subject to compliance with specified criteria. These include the need to avoid an over-concentration of flats or HMOs within the area. The accompanying text states that rather than set out a uniform standard against which to judge all proposals, Policy H10 will be used to assess this issue on a case by case basis.
7. The Council refer to *Houses in Multiple Occupation Supplementary Planning Document* (adopted 2012). The SPD notes that within Milton Keynes the main impacts from HMOs are considered to be related to parking, waste, noise and mixed communities. It acknowledges that not all of these problems can be attributed to the presence of HMOs, and that not all HMOs create such problems. It states that these issues can be associated with a high concentration of HMOs, and seeks to ensure that the community as a whole is mixed and sustainable.
8. The SPD also sets out the Council's approach to proposals for HMOs, including its approach to the assessment as to whether a proposal would give rise to an over-concentration of HMOs. It specifies that the number of HMOs should not exceed 35% of the total number of properties within a 100 metre diameter buffer of the application property. Paragraph 4.31 of the SPD states that this figure will be used as a guide, but the character of the area will also be taken into account. For the purposes of the assessment, each room within a HMO and any one bedroom flats are assessed as being a HMO. However the SPD does not explain the reason why one bedroom flats are counted as a HMO. Such accommodation comes within Class C3 of the Use Classes Order and is materially different from a HMO where some facilities are shared.

9. Based on the Council's assessment, as a consequence of the appeal proposal there would be 13 C3 dwellings (including 3 x 2 bedroom flats) and 8 HMO rooms (including a one bedroom flat) within the 100 metre distance. This equates to a 38% concentration and therefore would fail the threshold within the SPD. If the one bedroom flat is not counted as a HMO the proportion of HMOs would fall below the 35% threshold.
10. Due to the low density of the immediate area the number of dwellings included in the calculation is low, with only 21 dwellings in total including the 7 at the appeal property and 3 flats. By contrast the example within the SPD includes 50 properties within an area similar in size. Where the number of properties within the area used for the assessment is low a straightforward percentage calculation does not provide a reliable guide as to whether a proposal would result in an over-concentration of HMOs. In the case of the appeal proposal each HMO room represents about 4.75%, whereas in the example in the SPD it represents 2%. For this reason the 35% threshold needs to be used in a flexible and pragmatic manner in accordance with policy H10 and paragraph 4.31 of the SPD. To apply the threshold without an element of flexibility would mean that the SPD imposes a more stringent test by comparison with the development plan policy it seeks to interpret.
11. The aim of the policy is to avoid an unacceptable proliferation of HMOs in an area. Notwithstanding the methodology used by the Council for calculating the proportion of HMOs the majority of properties within Marshworth would remain in single family occupation. The Council consider that HMOs tend to attract younger and more transient occupants, with two thirds occupying a property for less than 12 months. For this reason the Council submit that the proposal would fail to create a mixed community and could give rise to a lack of community cohesion and integration.
12. Paragraph 50 of the National Planning Policy Framework (NPPF) requires local planning authorities to deliver a wide choice of high quality homes, and to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. It also supports the creation of mixed and balanced communities, and I acknowledge that the requirement within policy H10 is consistent with this aim.
13. The proposed accommodation seeks to provide for single professional people, working within the area, including staff from the nearby Open University. The Council acknowledge that it is of an acceptable standard, and it is evident that it would meet the needs of a specific group within the community. It would therefore accord with the aims of the NPPF in terms of providing housing to meet the needs of different groups in the community. Only one of the original dwellings would be occupied as a HMO and 10 properties would remain in single family use, with the remainder in use as self-contained flats, I therefore consider that the proposal would create a mixed and balanced community. Despite the Council's calculation, I do not consider that the proposal would give rise to an over-concentration of HMOs or that it would be harmful to community cohesion or integration.
14. The Council refer to an appeal decision in relation to 182 Fishermead Boulevard¹, where the inspector found that the threshold within the SPD represented an appropriate balance for maintaining the structure of a mixed

¹ APP/Y0435/A/12/2184650

community, and was worthy of support. For the reasons given above, the 35% threshold within the SPD is a guideline and must be applied in a flexible manner having regard to the circumstances of the individual case. Based on the available information it would seem that the immediate locality of Fishermead Boulevard includes significantly more dwellings by comparison with Marshworth, in addition it would seem that other properties were in use as HMOs. Therefore the Fishermead Boulevard decision does not alter my conclusions above.

15. I conclude that the proposal would not harm the character of the surrounding area, and whilst it would exceed the 35% threshold within the SPD, it would comply with Local Plan policy H10 and the NPPF.

Other Matters

16. Local residents suggest that the proposal would place an unacceptable burden on local infrastructure, including the drainage, sewage and the highway network. The Highway Authority has confirmed that it does not object to the proposal subject to the provision of the parking and cycle storage facilities shown on the submitted plans. No persuasive evidence has been submitted to indicate that the proposal would place an undue burden on the drainage or sewerage capacity.
17. In addition it is suggested that there would be insufficient parking for future occupants and the parking arrangements are detrimental to the appearance of the road. The proposal would provide 5 parking spaces and would therefore comply with the standards within the SPD. It also makes provision for cycle parking within the site.

Conditions

18. I have considered the conditions suggested by the Council in the light of the advice at paragraphs 203 and 206 of the NPPF and the PPG. I agree that a scheme for sound insulation between the appeal property and the adjoining dwelling, as well as the individual rooms, is necessary to safeguard the living conditions of the occupants of the neighbouring dwelling and future occupants of the proposed accommodation. The appellant states that the alterations adhere to the Council's specification for sound insulation, however a noise assessment to verify the adequacy of the insulation is necessary. The amenity areas, drying areas, cycle and bin stores should be retained in order to protect the amenities of the future occupiers of the building and the appearance of the surrounding area. The number of lettable rooms should be restricted to seven in order to avoid the over-intensive use of the property.
19. In addition, I consider that a condition requiring the provision and retention of the parking spaces shown on the submitted plans is necessary in order to ensure satisfactory parking arrangements for the development. For the avoidance of doubt a condition requiring the proposal to be implemented in accordance the submitted plans is necessary.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

Lesley Coffey

INSPECTOR