

Appeal Decision

Site visit made on 17 May 2016

by G J Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 14 November 2016

Appeal Ref: APP/K0425/W/16/3141691

34 Brands Hill Avenue, High Wycombe, Buckinghamshire, HP13 5QA

- 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 Khayzer Hayat against the decision of Wycombe District Council.
 - The application Ref 15/07400/FUL, dated 27 August 2015, was refused by notice dated 19 November 2015.
 - The development proposed is a change of use from a small-scale House in Multiple Occupation comprising 6 rooms (Use Class C4), to a 9 bed House in Multiple Occupation (Sui-Generis).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the appropriateness of the proposed change of use, in terms of:
 - The need for the proposed accommodation; and
 - The proposal's effects on the living conditions of surrounding occupiers, with particular regard to noise and disturbance, and on the character of the area.

Reasons

The need for the proposed accommodation

3. The appeal site accommodates a two-storey dwelling with additional accommodation within the roof space. It is set back from the road and has a large rear garden and outbuilding adjacent to the rear site boundary. The detached building is within a street of similar buildings, which are used predominantly as single dwellinghouses.
 4. The proposal involves an expansion of the existing House in Multiple Occupation (HMO) within the building. No external building works are proposed. The existing use accommodates six persons within six bedrooms, and the proposed expansion would increase this to nine persons/rooms. Although the planning history of the site does not include a previous HMO permission, the *Town and Country Planning (General Permitted Development) Order 2015 (as amended)* (GDPO) grants HMOs accommodating up to six persons the same 'permitted development' benefits as those allowed for single
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dwellings. Larger HMOs are classified as a *sui generis* use, and as such, permission is required for a change of use, as in this instance. This proposal is for an expansion of the existing HMO use, through the intensification of the existing operation within the building, utilising existing rooms which are currently not used as bedroom accommodation.

5. The *National Planning Policy Framework* (the 'Framework') requires local planning authorities to provide for inclusive and mixed communities, including the identification of the type of housing required in particular areas to reflect local demand (paragraph 50). This is broadly reflected in Policy H9 of the Council's *Wycombe District Local Plan* (2004) (the 'Local Plan').
6. The appeal proposal would serve a specific sector of the community, which in this case would be disadvantaged teenaged children. However, the GPDO, the Framework, nor the Local Plan set out specific considerations for particular community groups. Planning permission is specific to the land, not the applicant or appellant, and as such, a permitted HMO use under the terms sought by the appellant would not necessarily be restricted to youth accommodation in the future. I have therefore considered whether it would be appropriate, were I to allow the appeal, to require a planning condition allowing the accommodation to be only used by older children. The *Planning Practice Guidance* (PPG) states that such a condition could be appropriate, such as when the permission would benefit a particular class of people, provided that an exceptional need can be demonstrated.
7. The Council has not provided any information regarding local need for this form of accommodation. However, the appellant has provided evidence which suggests that there is a need for care accommodation for vulnerable youths, at both a national level, and within Buckinghamshire, and that the demand for such accommodation is not being met within the area. Buckinghamshire County Council figures, provided by the appellant, indicate that the county-wide number of older children in care exceeds the number of accommodation spaces, although I have not seen a detailed supply and demand analysis, nor a more specific analysis of local need for this district. As such, with the limited information before me, I am not convinced in this instance that there is an exceptional need of the sort set out within the PPG, which could justify the imposition of a planning condition to restrict the occupation of the HMO by youths only.
8. Nonetheless, in considering all of the relevant evidence, including the Framework's requirement for mixed and balanced communities, it is clear that there is an overall need for HMO accommodation, and that its provision can help to achieve this goal. This does not take account of the specific accommodation needs of various sectors of the community, such as disadvantaged children, but rather the more generalised need for HMO housing.
9. I therefore conclude that the proposed development represents an appropriate use, with particular regard to the need for the proposed accommodation, and that there would be no conflict with Policy H9 of the Council's Local Plan, or the Framework, for the reasons set out above.

Effects on living conditions and the character of the area

10. The proposal is for the expansion of the existing HMO by three bed spaces, and that the expanded HMO would operate in an otherwise similar manner to the present HMO. The appellant's Statement of Purpose provides a detailed breakdown of the eligibility criteria for accommodation, and includes examples of occupant and management obligations, with a code of conduct, and remedial procedures.
11. The Local Plan contains several policies that are relevant to this issue. These include: Policy G3, which states that development should respect the local urban context and maintain its character where appropriate; Policy G8, which requires development to safeguard the amenity of residents, incorporating considerations of traffic noise and disturbance; and Policy G15, which seeks to prevent development proposals which would have an adverse effect on neighbouring properties' amenities through unreasonable levels of noise or vibration. Additionally, Policy H15 of the Local Plan states dwellings converted for HMO accommodation should provide adequate internal space and facilities, and sound insulation between rooms and neighbouring properties. The Council's *Houses in Multiple Occupation Supplementary Planning Document* (2001) ('the HMO SPD') provides additional guidance for the siting and management of HMOs.
12. The Council considers that the proposed expansion would result in the creation of noise and disturbance generated by movement of residents and others to and from the site, and emanating from from internal and external areas on the site. I also have representations from surrounding residents, who cite examples of disruptive noise and disturbance that have resulted from the existing use of the site, and object to the intensification of the present use on these and other grounds, including concerns about the security of their properties.
13. The street is dominated by single family dwellings, and is lightly trafficked. During my daytime site visit, I noted the quiet nature of Brands Hill Avenue and its surrounding streets, abutting the edge of the built-up area of High Wycombe. It took me around ten minutes to walk to the nearest shops on Amersham Road, from where there is a frequent bus service to the town centre, although an irregular, infrequent service also operates closer to the site. High Wycombe town centre is approximately one mile to the south.
14. Local residents suggest that existing occupants of the site come and go on foot. The age of current and intended residents suggests that there would be no or at least a very low incidence of private car ownership, although this would not necessarily be the case were the HMO to cater to a different sector of the community. I have considered the possibility that were the appeal property to be used as a single family dwelling, that it could be occupied by a similar number of residents to that proposed in this instance. However, as an HMO is occupied by independent or semi-independent residents, I consider it likely that there would be an increased level of comings and goings from the property, potentially generating differing patterns of behaviour, when compared with that of a single family.
15. The evidence of neighbours and the Council suggests that this is the case at present, with surrounding residents providing examples of disturbance and

noises from current HMO residents which are sufficient to disrupt their day-to-day activities. I am concerned that despite the proposed small additional number of HMO residents, that the development would result in an increase in such movements. Given the quiet and peaceful nature of the area, any irregular noises or disturbances would be clearly noticeable to residents, and a greater number of HMO residents could result in an increase in such occurrences, which would result in additional disruptions for neighbouring occupiers.

16. The HMO's on-site management presence could be formalised with a planning condition, were I to allow the appeal. Although there is also evidence from neighbours of disruptive activity from within the property, I consider that this could be reduced with efficient on-site management, ensuring adherence to the code of conduct. Although such measures could also restrict residents' movements to and from the property, I am concerned that it would be difficult to ensure that behaviour and conduct away from the appeal property would be properly monitored or enforced.
17. The Council notes that the street is dominated by family dwellings. As the appeal scheme does not propose alterations to the appearance of the appeal property, its aspect as a single dwelling would be retained, and its current unobtrusive appearance within the street scene would not change, and thus its character would not be affected in this regard. The HMO SPD advises that consideration should be given to the impact of noise and disturbance on an area's character. Given the area's existing quiet nature, incidences of disruptive noise and behaviour would have a detrimental impact on its character.
18. The Council's third reason for refusal refers to the transient nature of occupiers being at odds with the more settled nature of the area and its single-household properties. However, there is insufficient evidence to suggest that three additional 'transient' HMO residents would exacerbate any detrimental impacts on area's character that have resulted from the interaction of existing residents. While it is possible that such residents may have less engagement with their community and neighbourhood surroundings in comparison to long-term residents, I am not convinced that the impacts arising from HMO occupancy would be different to other short-to-medium residential uses of this property, such as private rental, which would be exempt from planning control.
19. Although I have found that the proposal would be acceptable in this regard, and appropriate in respect to its impacts on character of the area, I have concerns regarding its effects on the day-to-day lives of residents, and consider that these could be detrimental to their reasonable expectations of a peaceful existence. I therefore conclude that the proposed development would have a harmful effect effects on the living conditions of surrounding occupiers, in particular in respect of noise and disturbance. It would conflict with Local Plan Policies G8, G15 and H15, but not G3, for the reasons set out above.

Other issues

20. The Council and local residents have submitted examples of dismissed appeal decisions for *sui generis* HMO proposals in other areas of the country. Although I have taken these into consideration, I consider that the specific circumstances of the case before me merit particular scrutiny. As such, I do not consider that these previous cases have set an overall precedent for my

consideration of this case, and as such, I have given them limited weight in my decision.

Conclusion

21. There is a need for HMO accommodation within the area, and the creation of three additional bed spaces would provide clear benefits for vulnerable members of the community. However, in balancing these benefits against the potential for harm that I have identified, they are outweighed by my concerns over the proposal's likely harmful impacts on the living conditions of surrounding occupiers, in relation to noise and disturbance.
22. The development would conflict with the policies of the adopted development plan for the area. As such, it does not constitute sustainable development in accordance with the definition set by the *National Planning Policy Framework*. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Rollings

INSPECTOR