
Appeal Decision

Site visit made on 4 October 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/N4720/W/16/3155456

1 Burchett Grove, Woodhouse, Leeds LS6 2JA

- 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 Paul Lanfear (Property Angels) against the decision of Leeds City Council.
 - The application Ref 16/03228/FU, dated 20 May 2016, was refused by notice dated 14 July 2016.
 - The development is described as retrospective change of use to 7 bed HMO including new window.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to a 7 bed HMO including new window at 1 Burchett Grove, Woodhouse, Leeds LS6 2JA in accordance with the terms of the application, Ref 16/03228/FU, dated 20 May 2016, and the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan 1:1250 and existing and proposed basement floor plan and side elevation.

Procedural Matters

2. The planning application form states that the change of use of the building to a 7 bed House in Multiple Occupation (HMO) started in February 2011 and at the time of my visit the property was in use as a 7 bed HMO.
3. The description of development in the heading above has been taken from the planning application form. However in allowing the appeal I have amended the description to remove reference to retrospective which is not a description of development.

Main Issues

4. The main issues are:
 - The effect of the development on the character of the area with particular regard to the housing mix;
 - The effect of the development on the living conditions of the occupiers of immediate neighbouring properties, in particular 3 Burchett Grove, having regard to noise and disturbance and to anti social behaviour;
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- Whether future occupiers of the front basement bedroom would have adequate living conditions having regard to privacy and outlook.

Reasons

Character of the area

5. The appeal site comprises an end of terrace two storey building with basement and attic accommodation located at the end of Burchett Grove adjacent to Hartley Avenue. The immediate surrounding area on Burchett Grove and parallel streets is characterised by properties of a similar size and type with semi detached properties on the opposite side of Hartley Avenue to the appeal site. At the time of my visit there was some evidence of rental properties within the area from the presence of estate agent boards, though the number of boards on display was limited. However I note that the Council states that the appeal site is located in an area with a high concentration of HMOs, including a large number of properties on Burchett Grove and surrounding streets and I have been provided with a number of maps produced by the Council which show a high concentration of HMOs and student accommodation in the Woodhouse area.
6. As stated, the appeal property has been in use as a 7 bed HMO for a number of years and prior to that was in use as a smaller HMO. The Council recently confirmed that the lawful use of the property is as a 6 bed HMO by granting retrospective planning permission in March 2016 (Ref 16/00539/FU). Consequently the development does not involve the loss of a dwelling but rather is an increase in bedroom numbers from 6 to 7.
7. The Council's reason for refusal relating to character cites conflict with the aims of Policy H6 of the Leeds Core Strategy (CS) and this policy is referred to by the Council in its Officer Report and Statement. I note that CS Policy H6 relates to proposals for new HMOs and I do not therefore consider that it is directly relevant to the development. However the reason for refusal relating to character also refers to the Council's wider objectives to address local housing and population in-balance and to foster the creation of sustainable communities and to guidance contained within the National Planning Policy Framework (the Framework).
8. I have had regard to paragraph 50 of the Framework which seeks to, amongst other things, create sustainable, inclusive and mixed communities and note the existence of an Article 4 Direction controlling the conversion of dwellings to HMOs in the area. I note that the appeal site is located within an area with one of the highest concentrations of HMOs in the city and from the available evidence it seems to me that Burchett Grove and the immediate surrounding area is already characterised mainly by rented accommodation including HMOs. In this context and taking into account the existing use of the appeal property as a HMO, I do not consider that the very modest increase in bedroom numbers at the appeal site from 6 to 7 makes a significant contribution to or materially changes the housing mix of the area.
9. In reaching my decision I note that there is some evidence that there are some social and environmental impacts on the area resulting from high concentrations of HMOs and rented accommodation. However, for the reasons given, I consider that the appeal development would not materially alter this existing situation or be harmful in this respect. I also note the Council's

reference to the possibility of the number of bedrooms being increased at other properties of a similar size nearby and the cumulative impact that these additional bedrooms would have on the character of the area. The Council has made reference to planning applications for additional bedrooms at properties on Burchett Grove and surrounding streets as evidence of the demand for additional bedrooms. However I have not been provided with the site addresses and I am not aware of the details or particular circumstances relating to these applications. In any event I must determine the development before me on its own merits.

10. Whilst I acknowledge and have some sympathy for the Council's concerns about the cumulative impact of similar developments, I am not satisfied that the evidence provided clearly demonstrates that the impact of this particular development is harmful, either individually or cumulatively. Furthermore, as I have found this development to be acceptable in this respect, I am satisfied that allowing the appeal would not set an undesirable precedent for proposals that would adversely affect the character of the area with particular regard to the housing mix. Any future applications for similar development would need to be determined having regard to the particular circumstances of the case and to the evidence base and circumstances that exist at that particular time.
11. Taking the above matters into consideration, I conclude that the development has not adversely affected the character of the area with particular regard to the housing mix. It therefore does not conflict with the Council's wider objectives in respect of local housing and population and complies with relevant paragraphs of the Framework which seek, amongst other things, to create sustainable, inclusive and mixed communities.

Living conditions (existing)

12. The additional bedroom is located within the basement of the appeal property and has use of the communal lounge, kitchen and dining facilities located on the ground floor. As stated the appeal site is located at the end of a road of similar properties, some of which appear to be in use as rented accommodation. The appeal property adjoins 3 Burchett Grove which I understand from the Council is in use as a dwelling.
13. I acknowledge that the increase in the number of bedrooms at the appeal property is likely to have resulted in some increase in the amount of comings and goings and noise and disturbance associated with the use of the appeal site as an HMO. However given that the increase in bedroom numbers from 6 to 7 is relatively low and having regard to the nature of the immediate surrounding area in particular on Burchett Grove and Hartley Avenue which appears to contain a mix of residential uses including other HMOs, I do not consider that any intensification of use and increase in comings and goings is likely to be materially harmful to the living conditions of immediate neighbouring properties. Whilst I note the Council's concerns about the cumulative impact of any increase in comings and goings on the wider area, on the evidence before me, any additional impact from the development at the appeal site is unlikely to be significant in the wider context of the area.
14. Though the Council is concerned about an increase in anti social behaviour and whilst I note reference to previous complaints regarding the appeal property, on site evidence of a party having been held there and anecdotal evidence regarding anti social behaviour in the locality, there is no substantive evidence

that the increase in bedroom numbers from 6 to 7 is likely to result in any increase in anti social behaviour emanating from the appeal site.

15. The Council has made reference to a number of relatively recent appeal decisions where they state Inspectors found that even a relatively small increase in the number of HMO occupants in an area is harmful to living conditions in existing high concentration areas. However I have not been provided with copies of these appeal decisions and as such I am not aware of the details or particular circumstances relating to them. In any event I must determine the development before me on its own merits
16. Taking the above matters into consideration, I conclude that the development is unlikely to adversely affect the living conditions of the occupiers of immediate neighbouring properties, in particular 3 Burchett Grove, having regard to noise and disturbance and to anti social behaviour. It therefore complies with Policy GP5 of the Leeds Unitary Development Plan (UDP), relevant paragraphs of the Framework and guidance contained within the Neighbourhoods for Living Supplementary Planning Guidance (SPG). These policies and this guidance seek, amongst other things, to avoid a loss of amenity resulting from development proposals. Though the Council referred to CS policies P10 and H6 in the reason for refusal relating to existing occupiers, these are not directly relevant to the development as they relate to matters of design and to new HMOs.

Living conditions (future)

17. The additional bedroom is located in the front basement of the appeal property. It is a reasonably large room and it has an existing window in the front elevation of the property facing out towards Burchett Grove. Though the window is positioned below ground level, at my site visit I noted that it does provide an outlook onto Burchett Grove above an existing low wall to the front of the property and I consider that the level of outlook to the front basement bedroom to be adequate.
18. An additional window is proposed to serve the front basement bedroom. This would be located in the side elevation facing towards Hartley Avenue. The side elevation is set in from the pavement edge on Hartley Avenue and set behind a low brick wall. Consequently its position relative to the pavement is not dissimilar to the position of the existing window in the front basement bedroom, the windows in the rear basement bedroom and other basement windows in the immediate vicinity.
19. The position of the additional window relative to the appeal site boundary and pavement would allow for some degree of overlooking into the front basement bedroom from the pavement. However having regard to the existence of communal facilities in the appeal property, the large size of the bedroom which would allow for various configurations of furniture and to the adequate outlook from the existing window, I do not consider that any overlooking through the additional window would be materially harmful to the living conditions of future occupiers of the front basement bedroom.
20. The Council has made reference to a number of appeal decisions which they state highlight the importance of daylight and sunlight penetration into rooms as well as providing a good level of outlook and privacy. However I have not been provided with copies of these appeal decisions and as such I am not

aware of the details or particular circumstances relating to them. In any event I must determine the development before me on its own merits

21. Taking the above matters into consideration, I conclude that future occupiers of the front basement bedroom would have adequate living conditions having regard to privacy and outlook. The development therefore complies with CS Policy P10, UDP Policy GP5, relevant paragraphs of the Framework and to guidance contained within the SPG. These policies and this guidance seek, amongst other things, to ensure that new development proposals provide good design that is appropriate to its function and to safeguard privacy and amenity. Though the Council referred to CS Policy H6 in the reason for refusal relating to future occupiers, this is not directly relevant to the development as it relates to new HMOs.

Other Matters

22. Though not referred to in the reasons for refusal, the Council's Officer Report raises concerns regarding restricted internal head height within the existing attic bedrooms and regarding increased pressure on communal facilities within the appeal property. Whilst these concerns are noted, the attic bedrooms do not form part of development before me and I am satisfied that the communal facilities at the appeal property are of a sufficient size to accommodate any additional demand that would be generated by the additional bedroom.

Conditions

23. I have had regard to the conditions suggested by the Council. Even though the change of use has already occurred I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty and the plans provide details of the additional window proposed. I have not imposed a condition regarding cycle/motorcycle parking as though I note that this condition was suggested by the highway authority, I do not consider that it is reasonable or necessary having regard to the very limited increase in the use of the property resulting from the 1 additional bedroom.

Conclusion

24. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR