

## Appeal Decision

Site visit made on 22 November 2016

**by Andrew Owen BA(Hons) MA MRTPI**

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

**Decision date: 7 December 2016**

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**Appeal Ref: APP/V4630/W/16/3157147**

**Providence Chapel, New Road, Willenhall, West Midlands WV13 2BG**

- 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 & Mrs Jamil & Anila Hashim against the decision of Walsall Metropolitan Borough Council.
  - The application Ref 15/1540, dated 15 October 2015, was refused by notice dated 14 July 2016.
  - The development proposed is the conversion of former chapel (Class D1) to form HMO (Class sui generis).
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on highway safety, on protected trees and on the fear of crime.

### Reasons

#### *Highway safety*

3. During the Council's consideration of the application various amendments were made to the plans. The drawings on which the Council made their decision show two parking spaces, including a disabled space, and a vehicle turning area. There would also be room for cycle parking and motor cycle parking on site.
  4. The site is sustainably located being within walking distance of Willenhall town centre, adjacent to a supermarket, and having a bus stop a short distance from the site along New Road. As such, this would mean future occupiers would not necessarily need to rely on cars for their day to day needs. Also the 14 rooms in a HMO would most likely be available at a cheaper rate than separate one bedroom flats and therefore it would not be unreasonable to consider that the likelihood of future residents owning their own cars would be less than were the proposal for separate individual flats. This is reflected in the fact that the Council accept that it would not be appropriate to require 21 spaces to be provided, which would be necessary were the proposal for 14 separate one bedroomed flats.
  5. Indeed as the Council have no parking standards for HMOs, it is a matter of judgement as to how many parking spaces would be required to serve the
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development. They suggest seven spaces would be appropriate and this is not unreasonable as I consider it likely that at least a few occupiers of the development would have cars. It is also important to consider the potential for visitors and their car parking needs too. As such I am of the view that the amount of parking proposed would be insufficient to adequately serve the development.

6. There is no opportunity for parking outside the site as there are double yellow lines on this part of New Road, and it is a main route into Willenhall town centre. As such any overspill parking resulting from the development would most likely occur on Newlands Close, adjacent to the site, or on Peel Street opposite the site. The opportunity for on-street parking at the start of Newlands Close is limited due to the number of dropped kerbs serving the houses. Further down Newlands Close there are fewer dropped kerbs and there is greater scope for on-street parking. However at the time of my site visit, shortly after the morning peak travelling time, this area was already well populated with cars and as such would be unlikely to be able to accommodate any additional vehicles at peak times. Accordingly any additional parking on this road may result in the obstruction of resident's driveways or the road itself. Similarly, whilst there appears to be some opportunity for on-street parking on Peel Street, it is a narrow road and so any on-street parking would be likely to affect the operation of the road.
7. I acknowledge that the former use of the building as a chapel would have generated a demand for parking on nearby streets as currently there is none on site. However this demand would have generally only been on one day a week during services, or occasionally on other days for special services or events, and only for a short time on these days. As such it is not comparable to the everyday parking demand that would result from the proposal.
8. As such I conclude that the additional pressure resulting from the proposal on the limited on-street parking available locally may lead to vehicles parking in positions on nearby roads which would compromise the efficient operation of these highways and so be harmful to highway safety. The development therefore would fail to accord with saved Policies GP2 and T7 of the Walsall Unitary Development Plan (UDP) which require development to have adequate parking facilities, and Policy ENV3 of the Black Country Core Strategy which aims to ensure a safe movement network. As the proposal is not a form of development listed in the Council's parking standards set out in Policy T13 of the UDP, it cannot conflict with this policy.

#### *Protected trees*

9. There are two mature sycamore trees located in the front of the site. These trees are protected by a Tree Preservation Order<sup>1</sup> and appear prominently in the street scene, being visible for some distance east and west of the site along New Road. The appellant's tree consultant states the trees appear healthy and vigorous and I have no reason to disagree.
10. As set out above the parking provision would be insufficient to serve the proposed use. Whilst this would be likely to result in on-street parking on other nearby roads, it may also result in parking on parts of the site within the

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<sup>1</sup> No 6 of 2010

Root Protection Areas (RPA) of the protected trees that are shown on the plans to be unsurfaced.

11. The regular and repetitive movement of cars in a part of the RPA which would not be covered with hardstanding could result in the erosion of the soil and damage to the roots of the trees. In view of the maturity of the trees, their resistance to any damage to their roots would most likely be limited. Accordingly the vitality of the trees would be threatened.
12. The appellants suggest that the Council, in correspondence, confirmed that the loss of the trees would be acceptable were an alternative scheme involving flats proposed. Nonetheless, from the evidence before me relating to the current proposal, I consider the development would be likely to lead to damage being caused to the roots of the protected trees which would threaten the vitality of the trees which are prominent features in the street scene.
13. Accordingly the proposal would be contrary to saved Policy ENV18 of the UDP which seeks to ensure the protection of protected trees, saved Policy GP2 of the UDP which requires proposals to have regard to trees, and saved Policy ENV32 of the UDP which aims to ensure the design of development is acceptable in terms of its relationship with the street. Policies NE7 and NE8 of Conserving Walsall's Natural Environment Supplementary Planning Document relates to the provision of replacement planting and the provision of an arboricultural impact assessment. There would be no conflict with these policies.

#### *Fear of Crime*

14. The appellant confirms the 14 en-suite bedrooms would be advertised on the open market and managed by a local letting agent. Furthermore a Tenancy Management Scheme would be adopted before the first occupation of the property, and the works would be designed to Secured by Design standards. The appellant has also stated that a unilateral undertaking could be provided to ensure the building is used as a standard HMO and not for persons requiring supported living, though I have no such document before me.
15. Many neighbours are concerned that, because of the nature of HMOs, incidences of anti-social behaviour and crime would rise locally as a result of the development. Paragraph 69 of the National Planning Policy Framework (the 'Framework') states that decisions should address the fear of crime.
16. My attention has been drawn to an appeal, determined earlier this year, relating to the provision of an HMO at No 248 Walsall Road, Darlaston where the Inspector considered that there was no firm evidence of crime vandalism and anti-social behaviour being attributed to occupiers of multi-occupied properties, and that the proposal would not have a materially harmful effect on the fear of crime. I have not been provided with a copy of this decision, but both parties refer to it.
17. I have also been alerted to an appeal decision from 1995 which related to a bail and probation hostel in Aldridge<sup>2</sup> where the Inspector considered that the fear of crime was a material consideration and that the development would "*accentuate the fears of those living nearby and so noticeably impair the living conditions that residents might reasonably expect to enjoy*".

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<sup>2</sup> T/APP/V4630/A/95/248899/P5

18. I give greater weight to the more recent of these appeal decisions, partly because it was determined in the same policy framework as this appeal is, but also because the older decision relates specifically to a bail hostel which is clearly not comparable to the case before me.
19. A representation from West Midlands Police provides the results of a survey of 337 HMOs in the West Midlands Police area. The survey found that in a recent 12 month period, 39% of the HMO properties had a crime attached to them and 56% had an incident attached to them. This compares with 4% of other residences having a crime attached to them and 16% having an incident attached to them. Although the nature of the occupiers and the management arrangements of these 337 HMOs are unknown, I consider these statistics are sufficiently compelling to suggest that, as a result of the development, the fear of crime or anti-social behaviour by the occupiers of nearby dwellings is not unreasonable. This evidence distinguishes this appeal from that relating to 248 Walsall Road, Darlaston in which the Inspector stated that there was a lack of firm evidence on this matter.
20. Moreover, as I have not seen the Tenancy Management Scheme or the unilateral undertaking, I have no information before me to demonstrate how the proposal would be managed to minimise the opportunity for anti-social behaviour to occur which may reduce the fear of crime.
21. Consequently, although the area is already one of the highest crime areas in the Walsall Local Policing Area, I consider the development would lead to the nearby occupiers having a greater fear of crime than currently exists. Accordingly the proposal would be contrary to saved Policy H7 of the UDP which aims to protect the amenity of the occupiers of neighbouring buildings, and paragraph 69 of the Framework as set out above.

### **Conclusion**

22. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

*Andrew Owen*

INSPECTOR