
Appeal Decision

Site visit made on 29 November 2016

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 04 January 2017

Appeal Ref: APP/P3040/W/16/3158449

Park Farm House, 14 Park Lane, Sutton Bonington, Nottinghamshire LE12 5NH

- 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 Wright against the decision of Rushcliffe Borough Council.
 - The application Ref 16/00980/COU, dated 1 April 2016, was refused by notice dated 19 August 2016.
 - The development proposed is described as continued use of former dwellinghouse as house in multiple occupation.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the dwellinghouse into a house in multiple occupation at Park Farm House, 14 Park Lane, Sutton Bonington, Nottinghamshire LE12 5NH in accordance with the terms of the application, Ref 16/00980/COU, dated 1 April 2016, and the plans submitted with it, including Site Location Plan ref 1393-001 April 2016, Existing Parking Arrangements ref 1393 – 001 May 2016.

Procedural matter

2. The description of the proposal includes the phrase 'continued use'. However, 'continued use' is not development. Consequently, a more accurate description of the proposal is 'the change of use of the dwellinghouse into a house in multiple occupation'. I have accordingly determined the appeal on this basis.

Main Issue

3. The main issue in this appeal is whether the change of use is sustainable development as defined in the National Planning Policy Framework ('the Framework'), having regard to;
 - the effect of the development on the character and appearance of the area; and,
 - the effect of the proposed development on the living conditions of neighbours.

Reasons

4. Park Farm House is a large dwellinghouse that has been in use as a house in multiple occupation for several years. The Town and Country Planning (General Permitted Development) (England) Order 2015 categorises as permitted development the change of use of a dwellinghouse (Use Class C3) to a house in multiple occupation(HMO) (Use Class C4) accommodating up to six people without the need to apply for planning permission. However, as the building has been converted to provide twelve bedrooms and accommodation
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for up to eighteen people, including the appellant and his sons, it is too large a property to benefit from this development right. It is common ground that as the HMO is in more intensive use than a house in single family occupancy a material change of use has occurred and that planning permission is necessary. I agree with that position.

5. Reference has been made to policy HOU9 of the Rushcliffe Non Statutory Replacement Local Plan. This policy though relates to the conversion of a house into flats and bedsits, rather than the conversion into a house in multiple occupation where facilities are shared. As a consequence, it is not relevant to this appeal.

Character and appearance

6. Park Lane is a grass verged residential road characterised by a mixture of mature, and more recent, detached and semi-detached dwellings set behind front gardens. Park Farm House is a detached property that dates from the early part of the twentieth century and sits comfortably within a spacious plot.
7. There is space for eleven cars to park at the house: seven spaces are available along the northern side of the dwelling and four are available to the front of the house. Given the large size of the property the presence of seven cars in a line along one side is not a dominant or incongruous feature. To the front of the building tandem parking spaces extend across only part of the house leaving the front door and the pathway to it, along with half of the front elevation, unobstructed visually. Parking associated with use of the dwelling as a HMO also takes place on Park Lane. However, on road parking is a feature of the lane and other than in relation to the nearby primary school there are no parking restrictions that prevent it.
8. For these reasons therefore, whilst the amount of parking on the property and on the road outside is greater than would occur if the house was occupied by a single household the parking that does occur does not materially detract from the building's character and appearance, or adversely affect the streetscene.
9. Although the house is not in a good state of external repair, the front garden and side of the building visible along the driveway is tidy. Refuse bins are stored in a screened area that is hidden from public view within the side garden close to the front boundary.
10. The storage area to the back of the drive hints at the untidiness of the rear and side garden which contain a variety of items such as bicycles, chairs and window frames. These areas though are not readily visible from public vantage points and so do not materially detract from the character and appearance of the area. Furthermore, such untidiness is not necessarily a consequence of the change of use to a HMO. The owner and his sons live at the house and it is quite possible that a similar level of untidiness over time would have occurred if they lived in the house on their own. Moreover, I understand that a notice has been served under section 215 of the Town and Country Planning Act 1990. Such a notice allows the local planning authority to specify the works necessary to prevent the condition of land adversely affecting the amenity of an area.
11. Taking all these matters into account, I therefore conclude that the more intensive use of the house as a HMO is in keeping with the residential character and appearance of the area and has not harmed it. The development therefore complies with policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy and policy GP2 of the Rushcliffe Non Statutory Replacement Local Plan (RNSRLP)

which require that new development and changes of use complements the character and appearance of an area.

Living conditions

12. The Council and local residents allege that noise and disturbance associated with car doors opening and closing, engines starting, loud voices and music are harming the living conditions of neighbours. Such noises though could equally occur if the house was occupied by a single household. The question which arises therefore is whether use of the property as a HMO has intensified such activities to the extent that they are causing harm.
13. The main area of concern for the Council appears to be the proximity of the parking areas to the dwellings at 1 and 2 Sutton Court. However, along the side boundary separating No 14 from these properties the blank gable end of buildings at Sutton Court linked by a brick wall over 2m in height form a significant barrier. This has the effect of reducing the levels of noise these properties and their outdoor amenity areas experience from this side of the appeal site. Given that it is a detached house well separated from its other neighbours, and in the absence of a history of noise complaints made to environmental health that have been substantiated, I am not persuaded that the intensification in use of the house as a HMO and the increased movement of people and vehicles is resulting in noise levels that are having a material adverse effect on living conditions. Consequently, the change of use would comply with policy 10 of the Core Strategy and GP2 of the RNSRLP which, amongst other matters, seeks to prevent such harm.

Other matters

14. Some local residents have complained that the use of the building as a HMO has resulted in anti-social behaviour and are concerned about the presence of transient residents close to a primary school. However, the instances of anti-social behaviour cited are few and far between and there is no evidence that residents who live in a HMO pose a threat to children. Indeed a significant number of representations have been received which have praised the accommodation the appellant offers his tenants, a notable number of whom are well educated individuals who work or study at the local Nottingham University campus. Consequently, I find that use of the house as a HMO has not adversely affected community safety.
15. Various concerns about safety and health have been raised. I have viewed inside the property and understand that if the appeal is allowed its use as a HMO will be subject to the licensing conditions of the Council which address such matters and prevent overcrowding. Furthermore, should there be a problem with vermin or pests the Council also has other powers to require action to be taken. As a result, I am satisfied that the property does not pose a threat to the safety or health of occupiers or neighbours.
16. In terms of highway safety, the village primary school is located close to the appeal property. At school opening and closing times significant on road parking occurs which adds to that present outside Park Farm House. However, such parking and any resulting congestion is short lived, and there are no objections from the Council or Highway Authority that parking on the road associated with the use of the building as a HMO harms highway safety. On the basis of what I have read and seen of the appeal property and Park Lane I have no reason to disagree with that assessment.

Overall conclusions

17. Sustainable development and the presumption in its favour are at the heart of the Framework. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice.
18. Environmentally, the change of use is in keeping with the character and appearance of the area and socially it has not been demonstrated that it is having a significant adverse effect on the living conditions of neighbours. As such the change of use complies with the development plan and those parts of the Framework that relate to good design. Moreover, in terms of the social dimension, the change of use is providing low cost accommodation for individuals and couples assists in providing sustainable, inclusive and mixed communities in accordance with paragraph 50 of the Framework. Economically, whilst the development provides income for the appellant, as planning is concerned with land use in the public rather than private interest, this is a consideration to which I attach little weight.
19. The village's services and facilities are within comfortable walking distance of the house. For a rural village Sutton Bonington has regular bus services. The bus stops near to the house allow these services to be easily accessed. Consequently, services and facilities are accessible from the house by sustainable modes of transport.
20. Taking all these matters into account, together with all other matters raised, I therefore conclude that the change of use complies with the development plan and national policy as a whole and is a sustainable development. As a result, the appeal should be allowed. In reaching this decision the views of the Parish Council and local residents have been taken into account.
21. Concern has been expressed that if the appeal is allowed this would set a precedent for similar development. However, given that I have concluded that the proposal would be acceptable, I can see no reason why it would lead to harmful developments on other sites in the area.
22. The Council has suggested that a condition is attached to the permission limiting the number of occupiers of the HMO. As I have found though that the change of use is acceptable in planning terms, and given the HMO licensing powers the Council has, such a condition is unnecessary.

Ian Radcliffe

Inspector