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## Appeal Decision

Site visit made on 10 January 2017

**by Stephen Hawkins MA MRTPI**

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

**Decision date: 9 February 2017**

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**Appeal Ref: APP/Y0435/W/16/3158973**

**2 Verity Place, Oldbrook, Milton Keynes MK6 2QF**

- 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 Mrs Kanwarpreet Gawera against the decision of Milton Keynes Council.
  - The application Ref 16/00640/FUL, dated 8 March 2016, was refused by notice dated 18 May 2016.
  - The development proposed is change of use from dwellinghouse to a Use Class C4 house in multiple occupation 4 bedrooms.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use from dwellinghouse to a Use Class C4 house in multiple occupation-4 bedrooms at 2 Verity Place, Oldbrook, Milton Keynes MK6 2QF in accordance with the terms of the application, Ref 16/00640/FUL, dated 8 March 2016, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. There is a confirmed Article 4 Direction covering this part of Milton Keynes, which withdraws permitted development rights for a change of use from a dwelling in Use Class C3 to a small house in multiple occupation in Use Class C4.
3. The application was made retrospectively, as the appeal property is already in use as a small house in multiple occupation. However, this has had no bearing on the outcome of the appeal.

### Main Issue

4. The main issue in this appeal is the effect of the change of use on the character and appearance of the area.

### Reasons

#### *Character and appearance*

5. The appeal property consists of a modern two storey building at the end of a short terrace. It is situated in a small close of similar properties which form part of a large, planned residential suburb. On the whole, the houses in multiple occupation (HMO) in the locality are indistinguishable from dwellings in single family occupation. Consequently, the surrounding area has a well ordered and pleasant suburban character and appearance.
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6. Saved Policy H10 of the adopted Milton Keynes Local Plan (LP) allows for the conversion of a dwelling to an HMO where, amongst other matters, it would not adversely affect the character of the surroundings or lead to an unacceptable concentration of properties in multiple occupation in the area.
7. The change of use has not resulted in any significant change in the outward appearance of the appeal property, which remains similar to that of adjacent properties in family use. Therefore, there is little to distinguish the use of the appeal property from the surrounding housing in terms of its character and appearance.
8. The Council's adopted HMO Supplementary Planning Document (SPD) indicates that in order to maintain a mix of dwellings and prevent a concentration of HMOs, their number should not exceed 35% of the total number of properties within a 100-metre diameter buffer.
9. Information supplied with the appeal indicates that there are up to 11 other HMOs within a 50-metre radius of the appeal property. However, the same information, which appears to have been sourced from the Council, lists in excess of 50 residential properties within the same radius. This equates to the number of HMOs including the appeal property in the 100- metre diameter buffer area, as being in the order of 24% of the total. Alternatively, the plan submitted at application stage, shows 4 HMOs including the appeal property out of a total of around 30 properties within a 50-metre radius. This would equate to a percentage of HMOs in the buffer area of around 13%. In either case, it is therefore unclear as to how the figure of 49% of HMOs within the buffer area suggested by the Council, was arrived at. The Council has not offered any detailed explanation of its calculations. Consequently, I find that the change of use has not resulted in a concentration of HMOs exceeding 35% of the total number of properties within a 100-metre diameter buffer of the appeal property. Accordingly, the change of use does not adversely affect the mix of dwellings or result in an unacceptable concentration of HMOs in the area and it is consistent with the guidance in the Council's adopted HMO SPD.
10. Overall therefore, the change of use has not had any unacceptable harmful effect on the character and appearance of the area either individually or in terms of the concentration of HMOs. As a result, the change of use accords with saved LP Policy H10.
11. Whilst it is not referred to in the Council's reason for refusal, Campbell Park Parish Council has made reference to a conflict with Policy CS10 of the adopted Milton Keynes Core Strategy in their representations. Nevertheless, the change of use provides HMO accommodation without undermining the existing mix of dwelling types in the area. It therefore accords with Policy CS10 and it would be consistent with the objective of the creation of sustainable, inclusive and mixed communities set out in the National Planning Policy Framework (the Framework).

#### *Other matters*

12. Interested parties have expressed concern over an increase in parking problems in the area. However, there is a hardsurfaced area capable of accommodating two parked cars at the front of the appeal property, with other off-street and on-street provision available in the surrounding area. As the appeal property is in an accessible location in relation to the town centre, it is

also possible that some of the occupants may walk or cycle and not require a car, thus reducing the requirement for additional car parking. The Council did not object to the change of use on the grounds of a deficiency in parking provision and I have not found any reason to disagree with them. I also note the allegations of noise from occupants of the appeal property. However, noise nuisance and anti-social behaviour are matters dealt with under other legislation.

### **Conditions**

13. I have imposed condition 1 in order to limit the scale of the approved use to that applied for, in the interests of safeguarding the living conditions of the occupiers of adjoining residential properties. It has not been necessary to impose the standard commencement condition or a condition requiring compliance with the approved plans as permission has been sought retrospectively.
14. However, condition 2 has been imposed to require the appellant to comply with a strict timetable for dealing with sound insulation measures as well as the schemes for the drying area and waste and recycling storage area, which all need to be addressed in order to make the development acceptable in terms of its effect on the living conditions of occupiers of adjoining residential properties and the character and appearance of the area respectively. After seeking the views of both main parties, the condition also requires the provision of secure on-site cycle storage, in order to promote sustainable transport objectives.
15. Condition 2 is drafted in this form because the development has already taken place. Therefore, it is not possible to use a negatively worded condition to secure the subsequent approval and implementation of outstanding detailed matters. Consequently, the purpose and effect of the condition is to ensure that the use of the appeal property authorised by the granting of planning permission may only continue if the appellant complies with all of its requirements.

### **Conclusion**

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

*Stephen Hawkins*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The use hereby approved shall not exceed a maximum of four separately let rooms.
- 2) Unless within three months of the date of this decision:
  - a) All internal bedroom walls and (where there is a habitable room above or below) bedroom ceilings and floors in the building have met the sound insulation standard of a minimum value of 40dB, and;
  - b) A noise assessment has been carried out in accordance with British Standard 8233:1999 (Sound Insulation and Noise Reduction in Buildings), demonstrating that the above minimum values have been met and together with the test methodology and results with all supporting data, has been submitted to the Local Planning Authority for approval, and;
  - c) Schemes for: (i) an external area for rotary driers/a drying area within the site; (ii) a waste and recycling storage area within the site; and (iii) a secure parking area for four cycles within the site, have all been submitted to the Local Planning Authority for approval, and;

unless any additional sound insulation required to achieve (a) above has been installed within three months of the Council's decision on the submitted noise assessment, and; the approved schemes under (c) (i)-(iii) are implemented within three months of the Local Planning Authority's approval, the use of the site as a house in multiple occupation in Use Class C4 shall cease until such time as any additional sound insulation required has been installed and the schemes under (c) (i)-(iii) are approved and implemented.

If within six months of the date of this decision any additional sound insulation required is not installed and the schemes in accordance with this condition are not approved, the use of the site as a house in multiple occupation in Use Class C4 shall cease until such time as any additional sound insulation required has been installed and the schemes approved by the Local Planning Authority are implemented.

Upon implementation of the sound insulation and approved schemes specified in this condition, they shall be retained thereafter in accordance with the approved details.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.