
Appeal Decision

Site visit made on 20 February 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 6 March 2017

Appeal Ref: APP/L1765/W/16/3163587

12 Thurmond Road, Winchester, Hampshire, SO22 4DE

- 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 T Budge against the decision of Winchester City Council.
 - The application Ref 16/00520/FUL, dated 11 March 2016, was refused by notice dated 29 July 2016.
 - The development is a change of use of the existing dwellinghouse (C3) to 8 bed House in Multiple Occupancy (sui-generis) and associated parking (resubmission of application 15/02875/FUL).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the change of use on the supply of family housing, and the living conditions of occupiers of neighbouring properties, having particular regard to matters of noise.

Reasons

3. The appeal site is a single storey extended bungalow which is currently being used as an eight bedroom House in Multiple Occupation (sui generis) (HMO). The proposal before me seeks to continue this use. The property occupies a slightly elevated position set back behind adjacent residential properties in Thurmond Road, and falls within the area of Stanmore.
 4. A major issue facing the community at Stanmore is the number of HMOs. The Council consider that an overconcentration of HMOs results in the loss of family homes, which are in demand, and can result in, amongst other things, loss of amenity and tensions within communities.
 5. In order to maintain a balanced housing stock Policy WIN9 of the emerging Winchester District Local Plan Part 2 – Development Management and Site Allocations (LPP2) sets out the circumstances where proposals for the conversion of dwellings to HMOs will be permitted. These are where it:
 - (i) would not create an overconcentration of HMOs, with no more than 20% of all properties in the total area being HMOs or no more than 25% of the properties on any one street in use as HMOs; and,
 - (ii) would not result in a dwelling being bounded by HMOs on both sides or a continuous line of 3 or more HMOs. Exceptionally, the change of
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use of an existing dwelling to an HMO may also be permitted where its suitability for continued use is seriously compromised because of existing domination by HMOs; and

- (iii) provides parking to meet the needs of the development taking into consideration the availability and adequacy of on-street parking.
6. In respect of WIN9 (i) the Council have provided evidence that Stanmore has exceeded the 20% threshold stipulated in this policy. Furthermore, more than 25% of the properties on Thurmond Road are HMOs (over 30%). There is no dispute between the parties that the change of use accords with Policy WIN9 in respect of (ii) and (iii). It would, however, clearly conflict with Policy WIN9 (i).
7. The change of use would therefore result in the loss of a house which could accommodate a family, of which there is demand for as set out in the supporting text to Policy WIN9. I also consider the Council has legitimate concerns in respect of loss of neighbouring amenity. High density uses such as larger HMOs will naturally generate increased levels of noise and disturbance due to the higher number of comings and goings and increased levels of activity, which would be above that of what could be considered a normal domestic arrangement in a C3 dwellinghouse. High concentrations of such uses in residential areas would therefore result in harm to the living conditions of occupants of neighbouring C3 dwelling houses in terms of noise.
8. The dwelling cannot be described as occupying a remote location and I do not consider that the level of separation between the host property and neighbouring properties is sufficient to overcome this harm. Whilst there is no evidence of any formal noise complaint regarding the existing HMO at the property there are a number of objections from local residents raising various concerns which include the impact on their living conditions in respect of noise.
9. I acknowledge that under the Town and Country Planning (Use Classes) Order 1987 a C3 dwellinghouse can change to a C4 small HMO, which allows for up to six people living together, without planning permission. In my opinion, six people living together is materially different to eight; eight representing a third more persons in a property, but in any event, the Council have made an Article 4 Direction which came into force on 2 May 2016 which removes these permitted development rights from the appeal property. This matter does not, therefore, alter my conclusions above.
10. Policy WIN9 of the LPP2 is the only policy referred to in the Council's reason for refusal. It is an emerging policy and as such is not part of an adopted development plan. However the LPP2 has undergone a Local Plan examination and has been found sound, subject to the recommended main modifications. These include a minor change to the wording of Policy WIN9 (i) from "and no more than" to "or no more than". I have, however, used the agreed modified wording in my deliberations above. Consequently I afford Policy WIN9 of the emerging LPP2, as modified, considerable weight.

Other matters

11. I note that the appeal site is a good location for the university and provides low cost housing for people on lower incomes, such as students, but this is likely to be the reason that there are higher numbers of HMOs in this area. The fact

that the thresholds outlined in Policy WIN9 (i) have already been exceeded does not, in itself, justify the development.

12. Whilst I understand the appellant's frustration at having previously applied for a change of use to a larger HMO at the appeal property and having overcome the single highway objection in that case, this does not override my findings above.
13. Finally, I have considered the appellant's suggestion of allowing the change of use for a temporary period in order to allow a trial run of the development. However, in light of the conflict with the emerging LPP2 a temporary permission would not be appropriate as the planning circumstances are unlikely to significantly change at the end of a 2-3 year temporary period.

Conclusion

14. Whilst there is nothing before me to conclude that the proposal conflicts with the current development plan, given the advanced stage of emerging policy WIN9 of the LPP2, it forms a material consideration of considerable weight. The change of use would conflict with this emerging policy resulting in harm to the supply of local family sized housing, and harm to the living conditions of occupiers of neighbouring properties in terms of noise. For these reasons, and having had regard to all matters raised, the appeal is dismissed.

Hayley Butcher

INSPECTOR