

Appeal Decision

Site visit made on 23 February 2017

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 20th March 2017

Appeal Ref: APP/P2365/W/16/3162636
73 Marians Drive, Ormskirk L39 1LG

- 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 Ormskirk Lettings against the decision of West Lancashire Borough Council.
 - The application Ref 2016/0637/COU, dated 3 June 2016, was refused by notice dated 7 September 2016.
 - The development proposed is conversion of dwelling to 5 bed student HMO.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ormskirk Lettings against West Lancashire Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. It has been confirmed that the appeal should proceed in the name of Ormskirk Lettings rather than Mr Wan.
4. Before the application was determined by the Council the description of development was amended by the appellant from a 6 bed to a 5 bed House in Multiple Occupation (HMO) as set out in the above banner.

Main Issue

5. The main issue is the effect of the change of use on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

6. The appeal property is a three-bedroomed semi-detached house on a large estate of similar properties. The dwellings are of the type that would be attractive to families. Local residents indicate that many houses are occupied by young families and elderly people. There are some HMOs dotted around the estate, including at Nos. 39 and 66 Marians Drive, but the area is one of predominantly family housing.
 7. The HMO would be aimed at students from Edge Hill University. Such a household of mainly young people in their late teens or early 20's would tend
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to come back late to the house on some evenings, particularly at weekends. This could be on foot or by car. Those walking would need to pass along Marians Drive or use the footway to the north which passes close to the properties either side. The latter allows easy access to the nearest public house, The Yew Tree. Students would regularly be in groups and in high spirits. There would inevitably often be loud talking and banter and on occasions boisterous and anti-social behaviour. Even if returning by car late in the evening, the banging of car doors and loud talking and shouting would be a source of annoyance for residents in the immediate locality.

8. Such behaviour relating to the existing HMOs in the street and elsewhere on the estate is supported by the observations of residents, particularly during the period November-December 2016. Disruption is often after midnight. The appellant suggests that there is no evidence to link the incidents with existing student HMOs and that no proper noise assessment has been produced. However, the times and dates of activity suggest to me that it is reasonable to link the disturbances with students. Moreover, some of the anecdotal evidence is related to a particular property, 66 Marians Drive. The evidence is specific enough even though no technical report is before me.
9. The late evening noise and disturbance resulting from another student HMO close to No 66 would lead to further disruption to residents nearby at a time when they would expect a quieter environment and uninterrupted sleep. This would be particularly so for households with young children, elderly occupiers or those working the next day.
10. There is an indication that the property would be managed in accordance with university conditions and tenants would be provided with information about 'behaviour in the community'. However, there is no detail before me of what this entails and how it would be enforced. Moreover, such measures would be unlikely to be able to prevent incidents beyond the HMO itself.
11. Policy RS3 of the Local Plan¹ relating to the provision of student accommodation advises that, when assessing proposals for conversion of a dwellinghouse to a HMO, regard will be had to the proportion of existing properties in use as HMOs. The proposal would not lead to the relevant figure of 5% within the policy being exceeded². However, the fact that the figure would not be exceeded does not, to my mind, mean that a HMO should necessarily be permitted. The particular characteristics of the location and the likely specific impacts are also factors to be taken into account, including the fact that in Marians Drive two HMOs at Nos. 66 and 73 would be fairly close together.
12. I note that planning permissions have been granted for student HMOs at 43 Ludlow Drive and 39 Marians Drive in the last 12 months despite concerns similar to those in this current case being raised by local residents. That said in this appeal there is evidence of specific incidents before me whereas it is not clear whether the Council had such information before them in permitting the other HMOs. Moreover, those properties are not as close to other HMOs. Therefore, it does not appear to me that the circumstances are directly comparable.

¹ West Lancashire Local Plan 2021-2027 Development Plan Document adopted October 2013

² The street falls into Category C

13. In conclusion the proposal would have an unacceptable impact on the living conditions of nearby residents, with particular regard to noise and disturbance. Although there would be compliance with Policy RS3, the proposal would be contrary to Policy GN3 of the Local Plan as reasonable levels of amenity for the occupiers of neighbouring properties would not be retained. A good standard of amenity for existing occupants would not be secured as sought by the National Planning Policy Framework.
14. It does not follow that compliance with Policy RS3 should always lead to non-conflict with Policy GN3. One of the main reasons why the Article 4 Direction which requires planning permission for changes of use from dwellings to HMOs and Policy RS3 were introduced was because of concerns about the impacts of HMOs on residential amenity. Whilst the explanation to the policy indicates that if only one in twenty units is a HMO then the negative effects are likely to be acceptable, it would not necessarily be the case in every situation.
15. The appeal site is on the other side of the town from the University. As such, despite the availability of bus services, it is likely that some students would have cars and use them to go to and fro. Provision would be made for an additional parking space in the front garden to add to the two that already exist. Paving the majority of the front garden would not be out of character with the street scene as several other properties nearby have done likewise. As the number of residents would not exceed five this would equate to satisfactory provision. Significant on-street parking would be unlikely.
16. I have taken into account the benefits that would arise from the provision of student accommodation for a successful university. That said I have not been given evidence about whether there is currently a shortage of such accommodation and the proposal would lead to the loss of a family dwelling so the weight I can give to such benefits is limited. The benefits would not outweigh the harm that I have identified in relation to the main issue. This is a case where other material considerations indicate that the appeal should be determined otherwise than in accordance with the most relevant development plan policy.
17. For the reasons given above I conclude that the appeal should be dismissed.

Mark Dakeyne

INSPECTOR