
Appeal Decision

Site visit made on 27 January 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 29th March 2017

Appeal Ref: APP/B1930/W/16/3160605

Hollyhouse, 38 Barnet Road, London Colney, St Albans, Herts AL2 1BG

- 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 Vijay Dooraree against the decision of St Albans City & District Council.
 - The application Ref 5/16/1263, dated 14 January 2016, was refused by notice dated 14 June 2016.
 - The development proposed is the change of use from care home to residential multiple occupancy.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from care home to residential multiple occupancy at Hollyhouse, 38 Barnet Road, London Colney, St Albans, Herts AL2 1BG in accordance with the terms of the application, Ref 5/16/1263, dated 14 January 2016, subject to the following conditions on the attached Schedule A.

Application for costs

2. An application for costs was made by Mr Vijay Dooraree against St Albans City & District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties, having regard to privacy.

Reasons

4. The appeal site consists of a two storey building with accommodation within a roof. By reason of its design and size, it is a tall building higher than buildings either side. It has part single storey/two storey extensions to the rear and was formerly a care home under Class C2 of the Town and Country Planning (Use Classes) Order 1987 (UCO) (as amended). The sides of the building are gabled with windows. They face onto the garden of a bungalow at 40 Barnet Road and the garden and the partial flank of a recent two storey dwelling at 1 Colnbrook Close.
 5. The proposal would result in the change of use of the building from its former use to a House in Multiple Occupancy. There would be flank second floor windows serving individual HMO rooms where previously there were bedrooms associated with the care home. There would be opportunities for the new
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residents to look out onto neighbouring properties from the windows serving their rooms but these second floor windows are at a high level above ground level. There is significant distance from them to the neighbour's properties due to this and the set back of the building from common boundaries. Looking down onto the neighbour's properties from these windows is also at an unnaturally steep angle for most people given their elevation. Therefore, there would not be a harmful loss of privacy to neighbouring residents of properties either side of the appeal site.

6. Notwithstanding this conclusion, the property has been in care home use up to December 2015. There has been no dispute that the previous use could continue and therefore this is a significant material consideration. The Council has indicated overlooking from the previous use would have been restricted because occupants would be largely confined to beds or chairs. However, whilst Class C2 indicates a support environment for residents, it covers a range of different types of residents. Consequently not all residents covered by this use class would be so limited in their movements so as to restrict their ability to look out of windows. Additionally, there would be visitors and staff associated with this use who could look out of the windows, such as when opening them for light or air.
7. Individual rooms of HMO tend to be used as living and bedroom areas. However, there would be a communal kitchen and living area, and shared bathroom and laundry facilities. Therefore, residents would be unlikely to spend all of their spare time in their rooms despite the Council's view to the contrary. Consequently, there are no convincing reasons as to why new residents would look out from the second floor windows significantly more than the previous occupiers associated with the care home for all these reasons.
8. In conclusion, the proposed use would not harm the living conditions of the occupiers of neighbouring properties having regard to the loss of privacy. The high level relationship of the windows would not result in significant overlooking. Additionally, the opportunity to look out of these windows by the new occupiers would not be greater than previous occupiers. Accordingly, the proposal would comply with policies 69 and 70 of St Albans District Local Plan Review 1994, which collectively and amongst other matters, requires a high standard of design for development and that tolerable levels of visual privacy in habitable rooms and private gardens have to be provided.
9. Furthermore, the proposal would also comply with the advice of the Council's Design Guidance Leaflet where it is indicated that privacy or amenity of adjoining properties shall not be unacceptably harmed for the reasons previously indicated. Similarly, it would secure a high quality of design and a good standard of amenity for all existing residents in compliance with the policies of the National Planning Policy Framework.
10. Anti-social behaviour has been reported to be associated with HMO residents. However, there is no evidence before me of this in relation to this proposal or that residents of the HMO generally would behave any differently from those associated with more conventional dwellings. For this reason, this consideration would not outweigh the acceptability of the proposal.
11. Turning to conditions, development is required to be carried out in accordance with the approved plans in the interests of certainty. To control the intensity of the use on this site for the sake of the living environment of neighbours,

conditions are necessary to ensure car parking, a restriction of rooms and ancillary use of a rear outbuilding.

12. In respect of car parking, the Appellant has indicated existing car parking of five spaces and that provision of a further five spaces would not be possible due to the size of the site. A higher level of parking provision could also result in significant loss of communal outdoor space. However, the site has good accessibility to local facilities, including shop, and public transport, and the accommodation to be provided comprises single rooms limiting the number of occupants. Given this, lower car parking provision in line with the Appellant's comments would be justified subject to the approval of details. A further condition is necessary to secure cycle provision in the interests of sustainable transport taking into account the highway authority comments.

Conclusion

13. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans submitted with the original planning application which are titled: existing and proposed ground floor; existing and proposed 1st floor and existing and proposed second floor.
3. Before any part of the development is occupied, a scheme of car parking shall be submitted to and approved in writing by the local planning authority. Before first occupation, the approved spaces shall be marked out on the ground and shall have measurements of not less than 2.4m by 4.8m. They shall thereafter be kept available at all times for the parking of vehicles.
4. Before any part of the development is occupied, a scheme of cycle parking provision shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first occupation and thereafter identified areas shall be kept available for the parking of cycles.
5. No more than 10 rooms shall be used for the purposes of individual residential accommodation for occupants.
6. The outbuilding at the rear of the site shall not be used at any time other than for purposes ancillary to the use of the main building at No 38 Barnet Road and the site as a house in multiple occupation. No residential accommodation shall be provided in the outbuilding.

-----END OF CONDITIONS-----