
Appeal Decision

Site visit made on 27 February 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 13 April 2017

Appeal Ref: APP/N4720/W/16/3165623

Mount Carmel Residential Home, 88 Church Lane, Cross Gates, Leeds LS15 8JE

- 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 Jamie Paul against the decision of Leeds City Council.
 - The application Ref: 16/03505/FU, dated 27 May 2016, was refused by notice dated 24 August 2016.
 - The development proposed is 'retrospective application for change of use of residential care home to form house in multiple occupation'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the proposed development on:
 - (i) the living conditions of nearby residents and whether the occupiers of the subject building would enjoy satisfactory living conditions, with particular reference to noise and disturbance, privacy and internal and external amenity space and facilities; and
 - (ii) highway and pedestrian safety.

Reasons

Living conditions

3. The appeal site lies on the east side of the busy Church Lane in a predominantly residential area characterised by large housing estates served by a network of principal and secondary roads. Established housing lies to the south and east of the site and a primary school and playing fields are situated to the north.
 4. The substantial former care home building on the site has been converted to a house in multiple occupation (HMO) providing 20 bedrooms over three floors plus an attic. Most rooms have en-suite facilities whilst a few rely on shared bathrooms. There are communal kitchen/dining facilities on the lower and upper ground floors and two common rooms on the upper ground floor. A large conservatory lies to the rear of the building with access on to a paved and gravelled patio/amenity area containing a shed. The car park area contains a large storage building which would be demolished to provide additional parking space.
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5. Amongst other things, saved policy GP5 of the UDP¹ states that development proposals should resolve detailed planning considerations and seek to avoid problems of environmental intrusion and loss of amenity. Policy H6(c) of the Core Strategy² provides for the conversion of existing houses into flats subject to various criteria being met, including the internal layout being suitable for the number of units proposed; the impact on neighbouring dwellings being unlikely to be detrimental to the amenity of their occupants; and provision of accessible enclosures for refuse storage. SPG: *Neighbourhoods for Living*³ includes guidance in relation to noise, privacy and amenity space. One of the core planning principles in the *National Planning Policy Framework* ('the Framework') states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
6. Comings and goings associated with the former care home would have included visitors, staff and deliveries. However, it is unlikely that noise generated by these activities would have disturbed surrounding occupiers to the extent that the enjoyment of their homes would have been materially harmed. This is borne out by the absence of historical complaints to the Council about the care home operation.
7. The proposed use would generally involve a younger and more energetic, socially active age group which would intensify activity on the site, including visits by non-residents and delivery vehicles. Vehicle movements to and from the property would be significantly increased creating noise and disturbance from parking manoeuvres, revving engines, in-car sound systems and the slamming of vehicle doors. The existing storage building on the eastern boundary of the site would be demolished to provide additional parking space, and in doing so would bring a noise source closer to adjoining dwellings and gardens and at an elevated level. It follows that pedestrian movements within the site would also increase. These activities would be intrusive for neighbouring occupiers, especially late at night when ambient noise levels are low.
8. It is likely that the use would also generate more noise within the conservatory and adjacent patio area when tenants and visitors are socialising. Such activity would be particularly intrusive for neighbouring occupiers during fine weather when windows and doors are likely to be open and gardens in use. Again, this would be especially problematic late at night when neighbours should be able to enjoy reasonable peace and quiet.
9. Although not an issue for the Council, some neighbouring occupiers have expressed concerns regarding loss of privacy. However, no new window openings are proposed in the building, and given the separation distances involved I am satisfied that increased overlooking of surrounding properties would not occur as a result of the proposal. Existing boundary screening could be reinforced or replaced to reduce overlooking of surrounding properties from the patio and car park.
10. In terms of outdoor amenity space, the designated area to the rear of the building is restricted by a shed, trees and a parking space. No development

¹ Leeds Unitary Development Plan (Review 2006)

² Leeds Local Development Framework Core Strategy: Development Plan Document (2014)

³ Supplementary Planning Guidance: *Neighbourhoods for Living* (2003)

plan policies or supplementary planning guidance for space standards have been referred to. However, given its limited size, I consider that the area is inadequate to provide satisfactory private amenity space for up to 20 tenants and any visitors.

11. The ratio of communal rooms to bedrooms is a concern for the Council. Interested parties have also referred to the inadequacy of other facilities, including kitchen/dining, bathroom and laundry provision. Although some of these facilities may not comply with the *Advisory Standards for Houses in Multiple Occupation*⁴, the document is produced by the Council's Housing Regulation Team and appears to be aimed at the HMO licensing rather than planning process. The Council does not rely upon it in its assessment of the proposal, and no development plan policies or supplementary planning guidance for such facilities has been referred to.
12. Most of the bedrooms are en-suite and appear to be of a reasonable size. In conjunction with the two common rooms, the conservatory and the kitchen/dining and laundry facilities, I consider that they would provide a reasonable level of internal amenity space for tenants and therefore find no conflict with Policy H6 of the Core Strategy in this respect.
13. The frequency of vehicles using the access and parking area would not be so great that tenants in rooms adjacent to these spaces would suffer from vehicle fumes. No technical evidence has been presented to show that daylight and sunlight levels reaching rooms, and especially those at lower ground floor level, would be inadequate. Sound insulation within the building could be required by condition.
14. Cycle storage areas are shown to the side of the building adjacent to parking spaces, although no details of racks, enclosures or security arrangements have been provided. Similarly, no details of bin storage enclosures are shown on the plans and wheelie bins were being stored on the northern boundary of the site at the time of my visit. I see no reason why secure cycle parking facilities and adequate bin storage measures could not be secured by condition if the appeal was to succeed.
15. Drawing these findings together, I conclude on the first issue that the proposal would materially harm the living conditions of nearby residents and would fail to provide adequate living conditions for occupiers of the subject building. As such, it would conflict with Policy GP5 of the UDP, Policy H6 of the Core Strategy and relevant amenity objectives in the Framework.

Highway and pedestrian safety

16. Church Lane is a busy road and a bus route which serves a large residential area, and traffic levels were high at the time of my morning site visit.
17. The Council's parking standards for a HMO is one space per two units⁵. In the case of the appeal proposal this equates to 10 off-street spaces. The submitted drawings show two spaces to the front of the building and eight to the rear following demolition of the storage building. The parking standards also require 20 secure cycle spaces.

⁴ *Advisory Standards for Houses in Multiple Occupation* (Leeds City Council 2012)

⁵ *Parking Supplementary Planning Document* (2016)

18. The parking area adjacent to the northern side of the building would have to be levelled to accommodate the three bays shown on the drawings. This could be required by planning condition. Extension of the dropped kerb at the site access on Church Lane could also be required in order to ensure a safer ingress and egress for vehicles.
19. It is likely that turning manoeuvres associated with the four spaces on the rear (eastern) boundary of the site would be obstructed by the cycle storage area adjacent to the conservatory. This could result in vehicles reversing on to Church Lane. The two parking spaces to the front of the building involve vehicles reversing on to or off the carriageway. This compromises the safety of road users, including those undertaking the manoeuvre, as well as the safety of pedestrians. It is unclear, however, whether the two spaces are long established or have been more recently provided to serve the proposed development. I am therefore unable to conclude on this aspect of the proposal.
20. It may be that the rationalisation and rearrangement of the parking layout and cycle storage facilities on the site could resolve these matters and prevent on-street parking. However, in the absence of plans or other evidence to clearly demonstrate that these measures could be achieved I am unable to conclude that the development could function without compromising highway and pedestrian safety.
21. Accordingly, on the basis of the information before me, the proposal conflicts with Policies H6(C) and T2 of the Core Strategy which requires sufficient easily accessible and appropriately located off and on-street car and cycle parking. It also breaches Policy GP5 of the UDP which requires proposals to maximise highway safety and avoid problems of highway congestion.

Other Matters

22. I agree with the main parties that HMOs can make an important contribution to meeting housing choice and need, and in this case providing accommodation for those employed in the area. Moreover, the site is in an accessible location in relation to services and facilities. I also note the letters of support for the proposal from a number of current tenants in the property. However, this should not be at the expense of neighbours' and tenants' living conditions and highway and pedestrian safety.
23. If I were minded to allow the appeal I would have sought further information regarding provision of facilities for disabled users of the building, but as I have found the proposal to be unacceptable for other reasons this course of action is unnecessary. Ventilation, fire risk and means of escape are matters for other legislation to deal with.
24. Other issues raised concern matters unrelated to this particular appeal and do not affect my judgement of the issues that I consider to be relevant.

Conclusion

25. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal should fail.

Michael Moffoot

Inspector