



Appeal Decision

Site visit made on 7 August 2017

by Thomas Shields MA DipURP MRTPI

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

Decision date: 24 August 2017

Appeal Ref: APP/Q0505/C/17/3174418
49 Whitehill Road, Cambridge, CB5 8LU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Shofina Khatun Haque against an enforcement notice issued by Cambridge City Council.
- The enforcement notice was issued on 27 March 2017.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the Premises as a large scale House in Multiple Occupation (Sui Generis), the unauthorised change of use of part of the ground floor (outlined in blue on attached plan for identification purposes only) of the main building at the Premises as a separate self-contained unit of accommodation, and the unauthorised use of the outbuilding (outlined in brown on attached plan for identification purposes only) at the Premises as a separate self-contained unit of accommodation.
- The requirements of the notice are:
 - (i) Permanently cease the use of the Premises as a large scale House in Multiple Occupation (Sui Generis).
 - (ii) Permanently reduce the number of persons living at the premises to no more than six (6) where the premises are not entirely inhabited by members from one family.
 - (iii) Permanently cease the use of part of the ground floor of the main dwelling house (outlined in blue on attached plan for identification purposes only) at the Premises as a separate unit of self-contained accommodation.
 - (iv) Permanently cease the use of the single storey outbuilding (outlined in brown on attached plan for identification purposes only) at the Premises as a separate unit of self-contained accommodation.
 - (v) Permanently remove all but one set of kitchen and cooking facilities from the Premises, including the outbuilding.
 - (vi) Permanently remove all beds and bedding materials not in storage from the outbuilding.
 - (vii) Permanently remove the shower from the outbuilding
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Decision

1. The appeal is dismissed

Main Issues

2. These are the effect of the development upon the living conditions of occupiers at the premises with particular regard to internal and external space, noise and

disturbance and privacy; and the effect of the use of the outbuilding as a separate unit of accommodation on the character and appearance of the area.

Appeal site and background

3. 49 Whitehill Road is an extended semi-detached two storey house with rooms in the roof space, and a large outbuilding in the rear garden. At the bottom of the garden is a small timber shed used for bicycle and other domestic storage.
4. The property sits within a predominantly residential estate area characterised by a regular pattern of estate roads with houses set back behind modest front gardens or forecourts and longer rear gardens.
5. The main house comprises at ground floor a kitchen and dining area, a common sitting room, a small cloakroom/w.c, and a room used as an office incorporating a boiler room. A door linking the kitchen/dining area to a further room was not in use at the time of my visit. At first floor there are four bedrooms and a bathroom, with two further bedrooms and a shower room at second floor. The six bedrooms had lockable doors and provided twelve bed spaces and together with the kitchen/dining area and other rooms I have described form the HMO¹ part of the property.
6. The further room, linked to the kitchen by the unused internal door, is occupied as a separate unit of self-contained accommodation, equipped with its own separate shower room/w.c and cooking facilities in the form of two microwave ovens, one of those having two top-fixed cooking rings, and a double bed. A table and chairs situated against the inside of the internal link door prevents direct internal access to and from the remainder of the house.
7. The outbuilding comprises a small room at one end nearest the main house containing a washing machine, dryer and freezer and other domestic storage. The rest of the outbuilding provides a separate unit of self-contained accommodation, equipped with a kitchen area, fridge/freezer, two microwave ovens; one of those having two top-fixed cooking rings, a separate shower room/w.c, double bed and living/dining area.
8. The main house, together with the two self-contained units, provided sufficient bed spaces for a total of sixteen people. The Council's undisputed evidence is that during a site visit to the property the main house accommodated six family members and two tenants, with two further tenants in each of the two self-contained units.

Reasons

9. The appellant argues that there is no common overlooking between the main house and the detached outbuilding due to their relative orientation, and that there is no loss of amenity due to the main house being accessed from the front while the outbuilding is accessed from the side path/garden entrance where there are no overlooking windows.
10. I acknowledge there is no direct window to window loss of privacy between the main house and the outbuilding.
11. However, I consider that the area of shared garden space available to the occupiers of the three units of accommodation is very limited and inadequate

¹ House in Multiple Occupation

given the potential number of people that could occupy the whole of the property. Moreover, none of the occupiers of the property could be said to enjoy any private area of amenity space in the garden.

12. In addition, the occupiers of the self-contained unit in the main house, and the occupiers of the outbuilding, would suffer unacceptable levels of noise and disturbance and loss of privacy by other occupiers when using the garden in close proximity to those two units' windows.
13. Given the intensive nature of occupation of the site by the three separate units, and the maximum capacity for occupation, I consider that taken as a whole the development results in an environment which has overly cramped living conditions for occupiers.
14. It appeared to me during my visit to the appeal site that the property as a whole was capable of providing adequate refuse and cycle storage facilities. However, that could potentially result in a further loss of available outdoor space, which I have already found to be inadequate.
15. Also, the Council's evidence is that the use of the outbuilding as a separate unit of accommodation is at odds with the prevailing character of the area; a point not disputed by the appellant. As I have previously described, the prevailing character and appearance of the local area is formed in part from an established layout and pattern of houses set back behind modest front gardens or forecourts with longer rear gardens. Consequently, I consider that the introduction and use of a second self-contained unit of accommodation in the rear garden introduces a feature which is alien to, and detracts from, that established character.

Conclusion

16. I have considered whether the imposition of planning conditions would overcome or adequately mitigate the harm to the living conditions and the character and appearance of the area I have identified. However, I conclude that there are no conditions that could be imposed which would achieve such a position.
17. For all the above reasons I conclude overall that the development results in significantly adverse and unacceptable living conditions for occupiers of the property, and results in harm to the character and appearance of the area. As such, it conflicts with Policies 3/4, 3/7, 3/10, 3/12, 4/13, and 5/2 of the Cambridge City Local Plan (2006)
18. The appeal on ground (a) therefore fails and the appeal is dismissed.

Thomas Shields

INSPECTOR