
Appeal Decision

Site visit made on 5 February 2018

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2018

Appeal Ref: APP/D1835/W/17/3185282

32-36 Bransford Road, St Johns, Worcester WR2 4EP

- 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 Minchan Properties against the decision of Worcester City Council.
 - The application Ref P17K0233, dated 21 April 2017, was refused by notice dated 24 August 2017.
 - The development proposed is change of use from 6 bed HMO to 10 bed HMO with the relocation of existing self-contained dwelling above shop to proposed studio flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are (i) whether the proposal would result in sub-standard accommodation; and (ii) the effect of the proposal on the living conditions of the occupiers of a neighbouring property, with particular regard to noise and disturbance.

Reasons

Standard of accommodation

3. In refusing the proposal on the grounds of sub-standard accommodation, the Council refer to Policy SWDP21 of the Development Plan¹ and the National Planning Policy Framework (the Framework). I find nothing within policy SWD21 which refers specifically to standards of accommodation. Nonetheless, it does refer to the importance of high quality design which is also promoted in the Framework, alongside a good standard of amenity for all existing and future occupants of land and buildings. Furthermore, I have policy SWDP14 and the Houses in Multiple Occupation SPD² before me which seek to avoid an overconcentration of HMOs within an area and an adverse effect on local character and amenity.
4. For HMO's the SPD seeks a minimum 100 square metres of communal landscaped amenity space. The amenity space proposed is split into two areas, one area for the studio flat proposed and the other for the HMO. The appellant suggests that 140 square metres of amenity space would be provided but there

¹ South Worcestershire Development Plan (adopted February 2016)

² Houses in Multiple Occupation, Supplementary Planning Document (SPD) October 2014

is nothing within the evidence before me to suggest that occupiers of the HMO would have access to an area of garden of this size. 'The lawn area for HMO use only' is below the size recommended by the SPD and there is no evidence elsewhere on the plans of a garden area for occupiers of the HMO.

5. The fact that the amenity space would fall short of the standards in the SPD is only an indication of sub-standard living conditions. Equally important is the quality of the space provided. In this regard the area of lawn would be overlooked, occupied in part by cycle parking and in close proximity to an area of car parking. Cumulatively these factors do not constitute a garden that would be pleasant to sit out in. As a result the development proposes an inadequate quantity and quality of outdoor amenity space.
6. The appellant suggests that there are recreational areas within the locality which would supplement the outdoor space provided. However, there is nothing within the evidence before me to show how occupiers might access these spaces and therefore benefit from the facilities they offer. Nonetheless, if I were to find some compensation in these spaces, public parks and open spaces are not substitutes for amenity space immediately outside living accommodation that is easily accessible and provides space for more minor garden activities such as sitting out.
7. The change of use proposes one shared lounge for ten bed spaces. The lounge would be peripherally located and limited in size, particularly when considering the number of occupants who may wish to occupy it at any one time. With little space elsewhere within the building for occupants to relax, I find that the quality of the lounge space would be sub-standard for the number of occupants proposed.
8. The outlook from HMO units 8, 9 and 10 in particular would be of passageways confined by walls. This would create gloomy and therefore oppressive living spaces within each of these units.
9. The Council suggests that HMO units 6, 7, 8, would be inadequate in size. There is nothing within the evidence before me that substantiates this claim, indeed on the contrary, the Council concludes that the development would meet minimum housing standards. The Council also raises concern that noise and disturbance from occupiers using the rear access, together with poor levels of surveillance, would be harmful to the living conditions of the occupiers of the studio flat. However the use of the path around the studio flat would be used for fire escape purposes only. Together with CCTV provided in this area I do not find that the rear access would compromise the quality of the living space within the studio flat.
10. Policy SWD14 states that, at criterion (D), *an application for the change of use to a House in Multiple Occupation (HMO) will only be permitted where it does not lead to, or increase an existing over-concentration of such uses in the local area*. The Council do not raise this as a concern and in the absence of any evidence to suggest that the change of use would lead to an increase or over-concentration of such uses in the local area, I do not find that the proposal would be contrary to policy SWD14.
11. Nonetheless, I have found that the change of use would provide a poor standard of outdoor garden space, an inadequately sized lounge and units 8, 9

and 10 with a poor outlook. Together this amounts to sub-standard accommodation which would be contrary to policy SWD21 and the Framework.

Living conditions of neighbouring occupiers

12. The Council's reason for refusal and delegated report states that the development would be harmful to the living conditions of neighbouring residents and alludes to vehicular movements and activity in the rear area of the site being the main reasons for this concern. However, the Council also states that the development would not result in any adverse effects upon the immediate neighbours at No 7 Graham Road. As the Council's concern is not altogether clear, I have focussed my assessment of this main issue around the living conditions of the occupiers of No 7 Graham Road in relation to pedestrian and vehicular movements.
13. The appeal site adjoins No 7 Graham Road which is a residential property that has a side elevation that overlooks the appeal site and a front and rear garden that adjoins the shared boundary between the two sites. A close boarded fence runs along this boundary.
14. As part of the development proposed a path would lead from an open drive area and alongside the shared boundary with No 7 to a door which would provide access to several HMOs. The evidence before me suggests that this path would be used for fire escape purposes only. As such occupiers would not use this access on a regular basis and therefore I do not find that noise and disturbance from occupiers using the path alongside No 7 would have a harmful effect on the living conditions of neighbouring occupiers.
15. An area of parking and vehicle circulation space would adjoin the shared boundary with No 7 and opposite the front garden and side elevation to No 7. There are no habitable living spaces at No 7 that overlook the appeal site. Furthermore the parking area would adjoin the front garden where neighbouring occupiers are unlikely to spend time for relaxation. As a result any noise and disturbance from vehicles moving on and off the site would not have a harmful effect on the living conditions of the occupiers of No 7.
16. In refusing the proposal on grounds of living conditions the Council refer to policy SWDP21 of the Development Plan but I find no reference within this policy to living conditions. Notwithstanding this, reference is made to the Framework which, with regards to noise, seeks to avoid development that gives rise to significant adverse effects, which I have not found to be the case. In all, therefore, I find that the development would not have a harmful effect on the living conditions of the occupiers of the neighbouring property with particular regard to noise and disturbance and therefore would not be contrary to policy SWDP21 or the Framework.

Other matters

17. I note the lack of objection to the proposed development from Worcester City Housing, neighbouring occupiers and the Highways Department and the lack of harm to the character and appearance of the area identified. However these are not matters which justify allowing the development which I have found to be otherwise harmful.
18. I have no doubt that the landlord is experienced and responsible and would properly manage and licence the premises. However, this does not

compensate for the quality of the premises which I have found to be sub-standard.

19. I recognise that the development would help relieve the pressure in the city for HMO accommodation. Nonetheless, as indicated by the policy framework discussed, it is necessary for the accommodation to be of an acceptable standard, providing a good standard of amenity for all. I have found that this would not be the case.
20. The appellant draws my attention to the planning permission which already exists for six HMOs and two two bed flats. Furthermore the appellant offers a means to overcome concerns for privacy. However, in light of the main issues identified and the concerns raised these matters are not of relevance, nor do they overcome the harm identified.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the development would be contrary to the development plan when taken as a whole, and the Framework as indicated. There are no material considerations to suggest a decision other than in accordance with the development plan and therefore the appeal is dismissed.

R Walmsley

INSPECTOR