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## Appeal Decision

Site visit made on 29 May 2018

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> June 2018**

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**Appeal Ref: APP/G1250/W/17/3190653**

**132 Hankinson Road, Bournemouth BH9 1HX.**

- 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 Eric Olivia Limited against the decision of Bournemouth Borough Council.
  - The application Ref 7-2017-17009-A, dated 30 August 2017, was refused by notice dated 24 October 2017.
  - The development proposed is, alterations and change of use to a 6 bedroom HMO (Use Class C4).
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### Decision

1. The appeal is allowed and planning permission is granted for alterations and change of use to a 6 bedroom HMO (Use Class C4) at 132 Hankinson Road, Bournemouth BH9 1HX, in accordance with the terms of the application, Ref 7-2017-17009-A, dated 24 October 2017, subject to the following conditions:
  - 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: 170724 P001 Rev 01, 170724 P003 Rev 02 and 170724 P004 Rev 2.
  - 3) The occupation of the house in multiple occupation hereby permitted shall be limited to a maximum of 6 persons.
  - 4) Within 2 calendar months of the date of this decision, details of bin store provision shall be submitted to, and approved in writing by the Council. The bin store will then be installed within 2 calendar months of the Council's approval, in accordance with the approved details, and will thereafter be maintained and kept available for the storage of bins.

### Procedural Matters

2. The description of development in the heading above is the description used by the Council. This is a clearer and more precise description of the development involved than that used on the planning application form.
3. The appellant states that the No 132 is currently in use as a 7-bed house in multiple occupation (HMO), however the Council state the use is not lawful. Nonetheless, given that the property is currently in a use similar to that for which permission is sought, I was able to assess its effects in relation to the

main issues during my visit. I have taken my observations into account in my decision, as explained in my reasons below.

## **Main Issues**

4. The main issues in this appeal are the effects of the change of use on:

- The character and appearance of the area.
- The living conditions of neighbours.

## **Reasons**

### *Background*

5. The permitted change of use between a dwelling-house and HMO has been removed across the Council area by an Article 4 Direction. Policy CS24 of the Bournemouth Local Plan: Core Strategy (LPCS), further restricts such change where 10% of properties within a defined area are already in use as HMOs. The stated objective of the policy is to 'encourage mixed and balanced communities'. The under-lying objective is to avoid the concentration and cumulative impact of a generalised range of adverse effects on the 'amenities of local residents' which the Council attributes to HMO use. In its statement the Council lists these as: 'anti-social behaviour; noise and nuisance from properties and on the street; imbalanced and unsustainable communities; negative impacts on the physical environment and streetscape; pressures on parking provision; untidy gardens; higher than average occurrence of to-let boards and the accumulation of rubbish'.
6. Paragraph 50 of the National Planning Policy Framework (the Framework) also sets a general objective of achieving sustainable, inclusive and mixed communities with regard to housing provision. More generally, paragraph 17 of the Framework states that decision taking should seek to secure a good standard of amenity for all existing and future occupants of land and buildings. It therefore provides some basis for considering HMO uses; however the Framework provides no specific guidance regarding HMO uses or their restriction.

### *Character and appearance*

7. The 'area' in question is confined to that strictly defined by proximity and distance based criteria set out in Policy CS24 of the LPCS. This area principally covers parts of Hankinson Road and Markham Road, which contain closely spaced 2 storey detached dwellings.
8. Insofar as the application states that no external modifications to the property are required, the character and appearance of the area would remain unchanged in that regard.
9. The Council notes that existing HMOs are spread almost evenly between the two roads at a total proportion of 13.8%, in excess of policy CS24 limits, and that a change of use would increase this to 14.8%. This it contends, would result in 'further harm related to more intensive use and increased levels of activity', leading to an adverse cumulative impact on the amenities of local residents, producing a higher potential for noise and disturbance. It has not however specifically identified, or provided evidence of, any existing harm related to HMOs within the area, or indeed related to No 132 itself.

10. As the Article 4 Direction and the policy cover the entire borough, their presence cannot be used to infer the suitability of Hankinson Road for HMOs. Insofar as the generalised effects noted by the Council can be physically viewed, I observed that the frontages of some, but not all the properties on the list of HMOs it provided appeared untidy, some had to-let boards, and some had an accumulation of rubbish. The latter was principally evidenced by overflowing bins. Some properties not on the list exhibited similar characteristics. Though these had a negative impact on the appearance of the street scene, this was localised and diluted by distribution. The frontage of No 132 itself did not appear to differ in any particular regard from that of some neighbouring properties not on the Council's list. The frontage otherwise appeared tidy, and bins were stored out of view. The Council notes presence of an off-street parking space and, notwithstanding concern expressed by a local resident, has not raised an objection on grounds of parking, and I agree.
11. The property lies in close proximity to a busy shopping street, therefore the location currently experiences a reasonable degree of background noise and on-going disturbance by passing vehicles. A dwelling containing 6 potentially unrelated adults might reasonably experience a moderately larger number of visitors and deliveries than a self-contained household containing the same number of people. However, the degree of actual difference, and extent to which any noise generated would have an impact on the character of the area, would be subject of specific circumstances. Against this background, and in the absence of any other evidence, I consider it unlikely that any modest increased activity related to HMO use would adversely affect the existing character of the area.
12. Notwithstanding the fact that the 10% limit on HMO uses set by Policy CS24 of the LPCS would be further breached by allowing the change of use, there is little substantive evidence before me that significant adverse impacts on the character or appearance of the area currently result from HMO use, or would be exacerbated by allowing the change of use. As such the change of use would not demonstrably fail to meet Policy CS24's underlying objective of controlling adverse impacts on amenities of local residents, or its stated objective of encouraging mixed and balanced communities. It would otherwise be consistent with Policy CS41 of the LPCS, which seeks amongst other things, to ensure that developments, including changes of use, enhance the character, local distinctiveness, cultural identity, amenities of future occupants and neighbouring residents.

#### *Living Conditions*

13. The property is detached, whilst dwellings to the rear on Markham Road are out of sight and separated by long gardens. Scope for any direct transmission of noise between dwellings therefore appears limited. I otherwise observed no other adverse impacts of the current use on the living conditions of neighbours during my visit, and none have been identified by the Council. As such the change of use would not be in conflict with Policy CS41 of the LPCS as set out above.

#### *Other Issues*

14. I note the Council's concern that whilst some issues it associates with HMOs can be subject to management by licensing, not all HMOs are licensed.

However I have not been provided with any specific details of the licensing regime, or its relevance to the current appeal.

### *Conditions*

15. I have applied a condition setting out a time limit for implementation, and identifying the approved plans for certainty. The Council has suggested further conditions covering occupancy and bin storage. On account of the fact that I have considered that the effects of the proposed use based on occupancy by 6 persons would be acceptable, a condition limiting occupancy to 6 persons would be reasonable. In the absence of a current dedicated bin store, a condition requiring provision of such a store would appear reasonable, and would help to reduce the potential for adverse impacts related to bins being stored in public view. I have used modified wordings to those suggested by the Council.

### **Conclusion**

16. Exercising my duty under section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended, I find that whilst the change of use would not be in strict accordance with the upper case policy of Policy CS24 of the LPCS, it has not been shown that harm would result that would conflict with the justification for the policy contained in the supporting text. For these reasons I conclude the development does not conflict with Policy CS24 of the LPCS when taken as a whole, and so the appeal should be allowed.

*Benjamin Webb*

INSPECTOR