

Appeal Decision

Site visit made on 11 December 2018

by Sarah Manchester BSc (Hons) MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 18th January 2019

Appeal Ref: APP/P2365/W/18/3210495

30 Peet Avenue, Ormskirk L39 4SH

- 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 Matt Jackson against the decision of West Lancashire Borough Council.
 - The application Ref 2018/0291/FUL, dated 12 March 2018, was refused by notice dated 25 June 2018.
 - The development proposed is a change of use of current property to HMO.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Matt Jackson against West Lancashire Borough Council. That application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of nearby residents, with particular reference to noise and disturbance.

Reasons

4. No 30 Peet Avenue is an extended 5 bedroom semi-detached dwelling at the end of a residential cul-de-sac. The properties are set back from the road with small front gardens enclosed by low boundary walls and also have dedicated driveways and garages. The road itself is narrow and notwithstanding off-road parking provision is reduced in places to single width as a result of roadside parking. The proximity of properties to the relatively narrow road, together with the absence of through-traffic, results in a private, undisturbed and peaceful character.
5. The proposed development is a change of use of the current property (Class 3) to a house in multiple occupation (HMO) (Class 4). No 30 would provide student accommodation for a maximum of 5 residents. No external alterations are proposed. There is space for 1 car in the garage, with the front of the property providing space for a further 3 cars. Secure bicycle storage would also be provided.
6. Policy GN3 of the West Lancashire Borough Council Local Plan 2012-2027 (the Local Plan) requires that proposals for development maintain reasonable levels of amenity for both occupiers and residents of neighbouring properties. All

- development is expected to be sustainable, having particular regard to local context.
7. The Council considers that the proposal would be in conflict with Policy GN3, primarily as a result of the likely noise and disturbance associated with transient occupation by students. In its statement, the Council notes that it is difficult to be certain that the current amenity of neighbouring residents would be retained.
 8. No 30 is of a size suitable to be occupied by a large family, such as might also generate a high number of vehicle movements, and cause noise and disturbance to the occupants of neighbouring properties. The appellant has suggested that it could be occupied by a family of up to 6 adults. Based on the stated maximum number of potential residents alone, it could thus be considered that no more impact would be generated by 5 students than by a similarly sized family. However, given that the plans indicate several of the bedrooms are of an appropriate size for double occupancy, and bearing in mind the student lifestyle, there is considerable potential for partners of students and friends to also be present. Notwithstanding the suggestion that the number of residents could be restricted by planning condition and HMO licensing regulations, the number of people present at any one time could nevertheless be considerably higher than 5. In any case, HMO use would inevitably result in more transient occupation with a higher turnover of unrelated residents and their visitors. Particularly given the intimate cul-de-sac location, use of the property as an HMO would be more disruptive and less likely to be assimilated successfully into the local community than would use as a family dwelling.
 9. No 30 has adequate parking space for a property of its size. However, my observation is that by its nature the parking provision would be more inconvenient and less readily accessible to a large number of unrelated adults than to a resident family. The cul-de-sac nature of the location means that there is no through traffic and all vehicular movements would necessarily be concentrated through the same sections of Peet Avenue. Notwithstanding the adequate number of parking spaces, given the particular characteristics of the location I nevertheless consider that parking and associated vehicle movements would result in additional noise and disturbance. It has been suggested that the majority of students living in the property will not own their own car, and there may in fact be fewer cars used as a result of the proposed development. However, there is no restriction on car ownership associated with HMO use, such that the scenario where all residents have access to a vehicle and wish to park at the property, even if the vehicle is not used to travel to university or college, could not be discounted.
 10. No 30 Peet Avenue is at the end of a narrow and quiet residential cul-de-sac. The proposed change of use from a family dwelling to an HMO would result in short-term occupancy by unrelated adults. Given the end of cul-de-sac location of the appeal property and the particular characteristics of the street, I consider that a high turnover of unrelated and transient occupants would have an adverse effect on the living conditions of the occupants of neighbouring properties.
 11. I therefore conclude that the proposed development would cause harm to the living conditions of nearby residents, with particular reference to noise and

disturbance. It would conflict with Policy GN3 of the Local Plan which requires development to maintain reasonable levels of amenity, having full regard to the local context.

Other matters

12. Policy RS3 of the Local Plan deals with the provision of student accommodation, and sets limits on the proportion of HMO properties within a street. For Peet Avenue, the current limit is set at no more than 5% of properties. Although the proposal is not in conflict with Policy RS3, the Council is currently consulting on proposed changes to this Policy as part of its Local Plan review. The preferred option would reduce the lowest limit from 5% to 0%, to address a reduction in the demand for HMO accommodation and to reflect the localised harm that can result from even one HMO. The Local Plan review is currently at an early stage and accordingly I have attached only limited weight to it.
13. My attention has been drawn to an appeal decision¹ where the Inspector allowed a change of use of a dwelling to a student HMO. In reaching that decision, the Inspector concluded that there was no evidence that the proposal would be harmful to the living conditions of neighbouring occupiers. There is similarly no such evidence before me. However, in that case there was an existing HMO in the same street, apparently operating without causing a nuisance. In this case, there are no pre-existing HMOs in Peet Avenue such that there could be no evidence in respect of the impacts of an HMO on residential amenity. Moreover, I consider that the particular location of the appeal property at the end of a narrow cul-de-sac is a key difference between these cases. I have therefore taken account of the local context in reaching my decision and determined this appeal on its own merits.
14. The appellant has suggested that there is a local need for housing of this type. However, no substantive evidence in respect of the need for student accommodation has been put to me by either party.

Conclusion

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations, which include the National Planning Policy Framework, indicate otherwise. I have found that the proposed development would cause harm to the living conditions of the occupiers of neighbouring properties. As such it is contrary to Policy GN3 of the Local Plan and no material considerations have been identified that would indicate making a decision other than in accordance with the development plan.
16. For the above reasons, I therefore conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR

¹ APP/P2365/W/17/3188723