



Appeal Decision

Site visit made on 16 July 2019

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/L1765/W/19/3228695

44 Fromond Road, Winchester SO22 6EG

- 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 Julian Bessey (Martin & Co Winchester) against the decision of Winchester City Council.
 - The application Ref 18/02853/FUL, dated 12 October 2018, was refused by notice dated 1 March 2019.
 - The development proposed is a seven bedroom house in multiple occupation (Sui Generis).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposed development was described as follows on the submitted application form, "44 Fromond Road is a WCC licensed 6 bed HMO [House in Multiple Occupation]. This application is for the property to become a Sui Generis 8 bedroom HMO. The property will not be physically extended. The property already has 8 bedrooms". During the assessment process the appellant and Council agreed to amend the description to reduce the proposal to a seven bedroom HMO. An amended plan showing the location of the seven bedrooms was not submitted to Council prior to their determination. Accordingly, the plan submitted for consideration in this appeal is the original eight bedroom plan. However, an illustration of the proposed seven bedroom HMO layout has been included within the appellant's statement of case for consideration.
3. The original description, and the appellant's statement of case imply that the existing dwelling is already benefitted by eight bedrooms. During my site visit I observed that there were only seven bedrooms. The existing ground floor plans illustrated in the statement of case show three bedrooms on the ground floor (bedroom Nos 4, 5 and 6). I only observed two bedrooms on the ground floor. Bedroom No 5 on the ground floor did not exist, and formed part of a larger living room area providing access to the rear garden.
4. The appellant also describes the existing six bedroom HMO as occurring across all three floors. However, the statement of case shows an existing floor plan for the six bedroom HMO as occurring on the ground floor and first floor only. My observations during my site visit was that the existing use occurred across

all three floors, two on the ground floor (bedroom Nos 4 and 6), three on the first floor (bedrooms Nos 1, 2 and 3) and one on the third floor (formerly labelled as bedroom No 8). Of the seven bedrooms identified I observed six were occupied with a bed, with bedroom No 7 on the second floor being the only vacant room.

Main Issues

5. The main issues are the effect of the proposal on:

- the living conditions of neighbouring residents with specific regard to noise and disturbance; and
- the character of the surrounding area resulting from the scale of development proposed.

Reasons

Living conditions

6. The appeal site is a terraced dwelling and is adjoined by dwellings on both sides. The row of terraces run perpendicular to Fromond Road and front onto a grassed enclave which provides pedestrian only access. No vehicular access exists for these residential dwellings, with associated parking provided on-street. The appellant describes the existing use of the site as a six bedroom HMO carried out under permitted development rights (Class C4) and the Council describes surrounding land uses as being dwelling houses (Class C3).
7. The observations made on my site visit have been given primary weight, due to a number of inaccuracies identified in both the appellant's and Council's supporting evidence. The representations from both parties fundamentally require me to determine whether the proposed use of an additional room, and by proxy the occupancy of an additional tenant in the dwelling, would generate additional noise and disturbance which would be harmful to the existing living conditions of neighbouring properties.
8. In addressing this point, the appellant states that the proposed additional bedroom would be located within the roof (second floor) and would not require any physical changes to accommodate the additional occupant. However, the proposed plans contained within their statement of case show a new bedroom on the ground floor (bedroom No 5) and an existing bedroom which I observed as being used under the Class C4 use (formerly labelled as bedroom No 8) unlabelled and unoccupied. These conflicting descriptions bring into question the likely scale and form of development which is intended to be carried out over the appeal site, and subsequently the likely impact. The Council have recommended conditions should the proposal be allowed to proceed. I am not satisfied that applying the conditions put forward by the Council are adequate to regulate the proposed use without the accompanying benefit of a clear and accurate plan of development.
9. Accordingly, due to inconsistencies in the information supporting the proposal, I am unable to determine whether the level of harm the proposal may have on the living conditions of neighbouring properties by virtue of noise or disturbance is acceptable. The development therefore conflicts with Policy DM17 of the Winchester District Local Plan Part 2, which seeks to ensure that change of use development does not result in an unacceptable impact.

Character of surrounding area

10. The Council's refusal refers to the scale of the proposed development being detrimental to the character of the area, but fails to attribute an appropriate Local Plan policy to this statement. Policy DM16 of the Winchester District Local Plan Part 2 is referenced within the Council's planning officer report when concluding on this subject. Policy DM16 relates to development positively contributing to the character of an area in terms of scale, amongst other things. I have drawn from this policy in my consideration of this issue.
11. The area has been characterised by the Council as comprising primarily of dwelling house uses (Class C3). Although not the prevalent land use within the area, the use of the appeal site as a six bedroom HMO under permitted development rights (Class C4) contributes towards broadening the residential character of the area. The proposed introduction of a seven bedroom HMO would represent an intensification, but could reasonably be expected to occur within an area such as the one surrounding the appeal site. Supporting this consideration is the lack of an Article 4 Direction restricting the take up of HMOs under permitted development rights.
12. Accordingly, I am satisfied that the proposed seven bedroom HMO would not detrimentally alter the character of the surrounding area. The proposal therefore complies with Policy DM16 of the Winchester District Local Plan Part 2.

Other Matters

13. The appellant raises a number of Local Plan policies as a means of justifying the potential effects of the proposal. Although these policies can be used as a guide, they do not form part of the assessable criteria for the proposal. The appellant also describes the proposal as affordable accommodation in a sustainable location, fulfilling an economic and social need in accordance with the National Planning Policy Framework and Guidance. However, it is considered that to satisfy the objectives of the Framework and Guidance compliance must be demonstrated with the applicable Local Plan first. Accordingly, these matters cannot be attributed with such weight that it would outweigh the harm identified by the Council and the uncertainty around the specifics of the proposal as described.
14. The Council's planning officer report inconsistently identifies and concludes on the elements of the proposal which conflict with the Local Plan. Highway matters were discussed in text as being satisfactory, having regard to the existing on-street arrangements servicing residential dwellings in the area and the nature of the proposed use. However, the report then goes on to conclude that the proposal conflicts against Policy DM18 of the Winchester District Local Plan Part 2, which is the corresponding policy. To remove any doubt, I am satisfied that highway matters as described for the proposal are acceptable.

Conclusion

15. For the reasons given above the appeal is dismissed.

J Gibson

INSPECTOR