
Appeal Decision

Site visit made on 15 August 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/D4635/W/19/3230572

23 Stanford Road, Wolverhampton WV2 4NF

- 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 Walwin Fairclough against the decision of Wolverhampton City Council.
 - The application Ref 18/01470/FUL, dated 12 December 2018, was refused by notice dated 11 March 2019.
 - The development proposed is change of use into House in Multiple Occupation for five tenants.
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Decision

1. The appeal is allowed and planning permission is granted for change of use into House in Multiple Occupation for five tenants at 23 Stanford Road, Wolverhampton WV2 4NF in accordance with the terms of the application Ref 18/01470/FUL, dated 12 December 2018, subject to the following condition:
 - 1) The building shall be occupied by no more than 5 residents at any one time.

Procedural Matters

2. The description of the development in the banner heading above is taken from the Council's decision notice and the appeal form, as it more accurately and succinctly describes the proposal than that on the planning application form. I have therefore determined the appeal on this basis.
3. The application is retrospective and the Council has granted a licence for the property to be a House in Multiple Occupation (HMO). A copy of the licence is enclosed in Appendix 3 of the appellant's Statement and permits the house to be occupied by a maximum of 5 occupants. The licence stipulates that three rooms can be occupied by 1 person each and one room by 2 persons. Notwithstanding the HMO licence, I have dealt with the appeal on its planning merits.
4. The first refusal reason cites Policy E5 of the Wolverhampton Unitary Development Plan. It is clear from both parties' statements that this is a typographical error and should read Policy EP5.

Main Issues

5. The main issues are the effect of the proposal on the character and appearance of the area, and on the living conditions of neighbouring residents with regards to noise and disturbance.

Reasons

Character and appearance

6. The appeal site is a modest two storey semi-detached dwelling located in a predominantly residential area in a road of similar properties close to Wolverhampton city centre. There is some commercial premises at the end of Stanford Road and others nearby. The appeal property is set back from the road with an enclosed frontage. Across the frontage are double metal gates and brick piers leading to hardstanding that could be used for parking. A number of other properties in the road have also laid their front gardens to parking for one or two vehicles, as was evident on my site visit. There is an alleyway along the side of the house leading to the rear garden. From the plans and the appellant's submitted photographs, the property has a good sized rear garden to provide adequate private amenity space for occupants, as well as space that could accommodate cycle parking and bin storage.
7. The proposal is for a change of use of the dwelling to an HMO occupied by up to five people. Internal alterations have already taken place, which were deemed appropriate for the purposes of the HMO licence including a ground floor bedroom that has been created near the communal kitchen. No external alterations are proposed.
8. The Council is concerned that the increased number of individual households within the property will result in an inappropriate density that would be unacceptably out of character with the surrounding area.
9. There is some dispute between the parties as to the number of households the appeal property would accommodate. The Council say 5, whereas the appellant says 4 because one of the rooms is permitted to have 2 persons and this would more likely be a couple. The modest size of the property is also a limiting factor on the number persons living at the property, which is reflected in the conditions of the HMO licence.
10. Nonetheless the proposal would result in more independent 'households' occupying the property, which would increase the density of accommodation in the property and the area. However, I have not been made aware of other HMOs nearby or an overconcentration of HMOs in the area to suggest that an increase in density for this property would result in an unacceptable or harmful change to the character of the area. I observed the appeal property to be well-maintained, as was the rest of Stanford Road. I have no reason to believe the appeal property is not well managed or that the appellant does not choose his tenants carefully. Also, I saw no evidence around the property or general area to indicate to me that there were issues of over-spilling bins or inconsiderate waste disposal or other anti-social behaviours that could have a detrimental effect the character of the area.
11. The appellant has drawn my attention to the Article 4 Direction the Council has made to control HMOs and the Council's 'Houses in Multiple Occupation (HMO) Planning Guidance' (Feb 2018) which are relevant. The Guidance recognises that HMOs can provide much needed accommodation, but if not properly designed can give rise to anti-social behaviours and fear of crime. It advises that each application is to be considered on its own merits taking into account the character of the existing area, the potential for anti-social behaviour and fear of crime including evidence from neighbours, key Council partners and the

Police, the creation of a safe and accessible environment, and the potential impact on highway safety.

12. None of the policies cited in the refusal reason specifically refer to HMOs or seek to prevent HMOs in residential or other areas. Saved Policy H6 of the Wolverhampton Unitary Development Plan 2006 (UDP) relates to the design of housing and that development should be compatible with adjacent uses and be of an appropriate scale, density and proportion. UDP Policy D6 and Policies CSP4 and ENV3 of the Black Country Core Strategy 2011 (BCCS) collectively seek to promote good place-making with high quality urban design for development to make a positive contribution and to retain, enhance or create local distinctiveness.
13. I have not been persuaded that the proposal would harm the character and appearance of the area. Accordingly, the proposal would not conflict with the above policies.
14. The Council also refuses under UDP Policy DC10 which deals with Community Safety, but makes no reference to this issue in its Statement. One resident refers to a link between HMO properties and increased crime rates. Whilst fear of crime is a material consideration, there is no submitted evidence from the Police, residents, local representative or the Council, either generally or specifically, about crime rates or incidents in the area to suggest to me that the proposal would directly result in crime in the area or that community safety is at threat. As such, there would be no conflict with Policy DC10.
15. UDP Policy EP5 relates mainly to noise pollution and hence is not directly relevant to this main issue.

Living conditions

16. Multiple households would have different patterns of activity to a single household as occupants would come and go independently of each other, with their own friends and family visiting, and this could give rise to noise and disturbance. I accept that a large single family could also cause noise and disturbance.
17. The property is already in use as an HMO and I have not been presented with any substantive evidence from the Council, local residents or their representatives that the existing HMO is causing unacceptable noise and disturbance, or even anti-social behaviour issues or other incidents. The Council contend that whilst there may not be complaints now, this is wholly dependent upon the tenants. But the fact remains that the current use is not causing problems.
18. An increase in unrelated households at the property would likely result in an increase in vehicles. However, the HMO Planning Guidance acknowledges that HMOs generally have lower-than-average levels of car ownership and suggests a general parking provision guide of 0.5 parking spaces per bedroom. Hence, the appeal property with its 4 bedrooms would require 2 spaces. There is limited on-street parking in the surrounding area as there is a 'yellow line' parking restriction on the other side of the street. However, there is already on-site parking for one vehicle at the front of the property. Should the appellant create a wider entrance to the site to accommodate 2 vehicles this would not result in a frontage dominated by parking, as I observed a number of other properties in

the road have made parking space for two cars. The appellant says there is a vehicular access off Milford Road leading to the rear of the property that once served a garage at the bottom of the garden. However, additional parking is not being formally proposed as part of the application.

19. There is no substantive evidence from local residents that parking from the HMO is causing a problem in the area or a noise nuisance and the Highway Authority has not objected. The Council has not suggested the appeal site is in an unsuitable or inaccessible location for housing or in relation to access to services or facilities. I noticed that local shops, including a supermarket, and the centre of Wolverhampton are not far away such that occupants would not need to rely on the car for all of their day-to-day needs.
20. I therefore conclude, based on the evidence before me, that the proposal would not significantly harm the living conditions of neighbouring residents with regard to noise and disturbance. I am satisfied that the development would not conflict with UDP Policies D6, H6 and EP5 and BCCS Policies CSP4 and ENV3, which collectively seek to promote good place-making with high quality urban design for development to make a positive contribution, as well as ensuring development protects the amenity of neighbouring residents and does not give rise to unacceptable levels of noise pollution.

Other matters

22. Comments raised by a resident who lives nearby have been largely addressed in the main issues. As to why the appellant does not rent the house out to a single family is a choice for the appellant and reference to profit-making is not a planning matter in this instance.
23. The Council has not suggested any conditions in the event that the appeal is allowed. Due to the modest size of the dwelling, a condition is necessary to control the number of occupants. As the HMO is already operating I am satisfied that no other specific conditions are necessary.

Conclusion

24. Having regard to all matters raised, I conclude that the appeal should succeed and planning permission should be granted.

K Stephens

INSPECTOR