



Appeal Decision

Site visit made on 10 September 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/G4240/W/19/3232621

Gardeners Arms, 279 Edge Lane, Droylesden M43 6BS

- 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 D Chinta against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 18/00950/FUL, dated 30 September 2019, was refused by notice dated 31 May 2019.
 - The development proposed is the change of use from a public house (Use Class A4) to a large, 12-bedroom House in Multiple Occupation (sui generis use).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a public house (Use Class A4) to a large, 12-bedroom House in Multiple Occupation (sui generis use) at Gardeners Arms, 279 Edge Lane, Droylesden M43 6BS in accordance with the terms of application 18/00950/FUL, dated 30 September 2019, subject to the conditions set out at the end of this decision.

Application for costs

2. An application for costs was made by Mr D Chinta against Tameside MBC. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development appearing on the decision notice and appeal form differs from that submitted on the original application form. For the avoidance of doubt, the description of development above is taken from the appeal form and Council's decision notice as this provides a more accurate description of the development.

Main Issue

4. The main issue is the effect of the development on community cohesion, resilience and the fear of crime.

Reasons

5. The site lies in a mixed area of residential and commercial development of varying ages and character. The public house use is reported to have ceased almost two years ago and the building is now in a dilapidated state suffering from low levels of maintenance and appears to have been subject to vandalism. Consequently, it is currently a detractor from the character of the

area. The evidence also indicates that the appeal property has been the focus of informal congregation and unsociable activities.

6. The proposed development would result in the formation of a 12-bedroom house in multiple occupation (HMO) with shared living facilities and communal areas. The Council's concerns arise from the potential of occupants to be of a transitory nature and thereby contribute little to community cohesion and resilience. In addition, it has been suggested to me that some HMOs elsewhere in the area have strong associations with criminality and anti-social behaviour and the formation of an additional HMO could lead to an elevated fear of crime.
7. The nature of the occupancy of the housing is not defined within the scope of the original application or the appeal submissions. The description merely describes it as a type of primary residential accommodation. In the absence of any qualifier, student housing for example, there is little evidence on which to determine the likely duration of tenancies that might take place within the building. Whilst some types of HMO may result in short stays this cannot reasonably or unequivocally be applied to all HMOs. Terms of tenancies or ownerships are not a determinative matter in land use proposals. The Council's initial assessment, therefore, appears to have been based, at least in part, on assumptions regarding the residents of the development.
8. In relation to the assessment of any contribution occupiers might make to local community cohesion, again there appears to be presumption by the Council over the nature of the occupancy and of individual and/or group behaviour. There is an absence of substantive evidence to explain why occupiers of the premises would not contribute to the local community.
9. It is notable that the Council received strong objection to the proposal based on first hand evidence of HMO accommodation elsewhere. Indeed, the representations of the local police force describe instances of significant concern relating to problems generated in the locality. However, within the information before me I have found no direct basis to correlate the circumstances found elsewhere with the development proposals at hand.
10. In terms of resilience, the reintroduction of an active use of the building and grounds has potential to result in increased management of the site to bring about environmental gains in terms of its condition and appearance. This, taken with the presence of occupiers, can have the effect of deterring unwelcome third-party activity on and about the site through reinstatement of active and incidental surveillance. The proposal therefore has potential to displace some of the current adverse impacts associated with the site and increase, rather than decrease, levels of community resilience in the locality.
11. Despite elevated levels of criminality and anti-social behaviour in the locality, there appears to be no substantiated evidence before me to justify a presumption that occupiers would be transient, would fail to contribute to community cohesion, would undermine resilience or, therefore, increase the fear of crime in the locality. Consequently, the appeal development would accord in that regard with paras 91(b) and 127(f) of the National Planning Policy Framework.
12. In the absence of any substantive evidence to sustain the reason for refusal of planning permission and having regard to all other relevant matters I conclude the appeal should be allowed.

Conditions

13. I have considered the suggested conditions from the Council in accordance with the guidance contained within the Planning Practice Guidance. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty.
14. In the interests of protecting the character and appearance of the area, conditions to control the appearance of the bin and cycle stores and aerial/satellite dishes would be necessary.
15. To ensure the development benefits from sufficient parking I have included a requirement for the parking area to be laid out; to protect local living conditions a condition limiting the construction activity to sociable hours is imposed. A requirement for contaminated land screening is not necessary given the former use of the site.

Conclusion

16. For the reasons set out above, I conclude that the appeal should be allowed.

R Hitchcock

Inspector

Schedule of 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: 2125/L01B; 2125/P01B; 2125/P02A; 2125/P03; and, 2125/P04.
3. Demolition or construction works shall take place only between 07.30 and 18.00 hrs on Mondays to Fridays and 08.00 to 13.00 hrs on Saturdays. No works shall take place at any time on Sundays or on Bank or Public Holidays.
4. Prior to first residential occupation of the building details of the external appearance and materials for the construction of the bin stores and cycle store shall be submitted to and approved in writing with the local planning authority. The bin stores and cycle store shall be constructed in accordance with the approved details and be retained at all times for the duration of the development.
5. The car parking spaces shown on approved plan 2125/L01B shall be provided prior to first residential occupation of the building and be retained for that purpose for the duration of the development.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no television, radio aerial, satellite dish or other form of antenna shall be installed on the exterior of the building until details have been submitted to and approved in writing with the local planning authority. Only equipment according with the approved detail shall be installed on the building.

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