The Planning Inspectorate

Appeal Decision

Site visit made on 1 October 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/D1780/W/19/3229657
21 Woodcote Road, Southampton SO17 3TF

- 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 Charles Omer against the decision of Southampton City Council.
- The application Ref 18/01835/FUL, dated 4 October 2018, was refused by notice dated 27 November 2018.
- The development proposed is described as the 'change of use from a dwelling house (class C3) to a house in multiple occupation (HMO, class C4)'.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description above has been taken from the planning appeal form and which more succinctly describes the development than the fuller details provided on the planning application form.

Main Issues

3. The main issues are:

   i) whether the proposal would lead to an excessive concentration of houses in multiple occupation (HMOs) such as to fail to provide a mixed and balanced community; and

   ii) whether the proposal would harm the character and appearance of the area.

Reasons

Mix and balance of the local community

4. Policy CS16 of the City of Southampton Local Development Framework Core Strategy Development Plan Document adopted January 2010 (CS) seeks to provide a mix of house types and more sustainable and balanced communities through a number of measures including control of HMOs, in particular for students. I note that the document has been through review and further examination in public prior to being adopted again in March 2015. I consider Policy CS16 to have conformity with the National Planning Policy Framework (the Framework) and have significant weight.

5. The Council's Houses in Multiple Occupation Supplementary Planning Document adopted May 2016 (SPD) provides more detail on how to assess changes of use to HMOs. It sets out that where the proportion of HMOs exceeds 10% of the local properties, within a defined area of the application site, that planning permission will be refused. I note that this document is not part of the development plan, however the Council sets out that it should be afforded significant weight, and this is not challenged by the appellant. Given its age, the level of consultation it has been through and its general conformity with the Framework it is a material consideration that I afford weight to.

6. At section 4 of the SPD a methodology for determining planning applications is set out. It states at paragraph 4.1.1 that the Council will calculate the number of HMOs in an area and that the applicant should undertake their own estimate and provide supporting data. Applicants are referred to sources of information at paragraph 4.2.2. This details council tax records as a source of information, but states that they are not publicly available.

7. The appellant details that they carried out their own research prior to purchasing the property in 2018 and state that there are no HMOs within the relevant search area. They noted that as at 1 November 2018 the HMO licences at Nos 17 and 33 had expired and not been renewed. They noted no other HMO licences within the search area. Furthermore, they found no planning records for any change of use applications to an HMO use. Therefore, they consider that there is no evidence of any properties within the search area being used as an HMO, and that their proposal would result in raising the proportion to only 9%, below the SPD threshold. They quote paragraph 4.2.4 of the SPD that states that where there is 'significant doubt' as to whether a property is an HMO it will not be counted towards the threshold. The appellant asserts that the lack of evidence for any one property being an HMO raises significant doubt as to whether any HMOs exist in the search area.

8. The Council carried out their assessment and concluded that there was one existing HMO within the defined area, representing 9%. They set out that the evidence was not conclusive for other properties and therefore those were not counted as HMOs within their assessment. The Council assessed that the proposal would therefore increase the number of HMOs to 2, breaching the 10% threshold by raising the proportion within the search area to 18%.

9. The Council clarifies at paragraph 5.7 of its appeal statement that the property they counted within their assessment was the only house in the search area historically identified as an HMO in the council tax records. Such information is not available to the public and as such the appellant could not have been aware of this when making their 'estimate' as directed by paragraph 4.1.1 of the SPD. I consider that the council tax records form a source of evidence as set by the SPD. Furthermore, I am mindful of paragraph 4.2.3 which sets out that the listed sources are not to be considered as 'conclusive' or 'exhaustive'.

10. The Council highlight the high volume of HMO premises that need to be relicensed. I note that just because an HMO licence has expired it does not necessarily mean that a property ceases to have a C4 lawful use. Furthermore, I note that the C4 use class was only introduced in 2010 and that the city-wide Article 4 Direction to require planning permission for a change of use between C3 and C4 was only brought into effect in 2012. Historic licences may help to inform the picture of HMO uses within a community. Further evidence to

support this picture would potentially, in my view, avoid 'significant doubt'. The Council state in evidence that 33 Woodcote Road has now reapplied for its licence. This indicates that the property has remained in a C4 use despite the licence lapsing. This evidence is not challenged by the appellant.

11. Based on the evidence available to me I have no significant doubt that the proposal would breach the 10% threshold set out within the Council's SPD. The SPD also sets out exceptional circumstances that may allow planning permission to be granted. However, none appear to be applicable in this case.

12. The appellant states that the property is currently occupied by themselves and 2 lodgers under Class C3. This has not been challenged by the Council. The proposal to change the use to C4 would allow occupation of the currently vacant single bedroom and result in an additional tenant. The appellant contends that this modest increase would not affect the mix and balance of the community whether it is above or below the 10% threshold.

13. However, I am mindful of the cumulative impact that additional tenants may have in terms of the balance and mix of the community. The SPD sets out the reasons for the policy position and the main concerns and impacts from HMOs. Issues include the intensification of comings and goings associated with occupiers of HMOs compared to a typical family unit. An additional tenant would exacerbate the type of concerns identified within the SPD.

14. Therefore, on the first main issue, I conclude that the proposal would lead to an excessive concentration of houses in multiple occupation (HMOs) such as to fail to provide a mixed and balanced community. This would be contrary to Policy CS16 of the CS and the SPD.

Character and appearance

15. The appeal site is located within a quiet residential cul-de-sac that appears to comprise mostly family housing. An HMO in this location would be attractive to students due to the proximity of the university. In this cul-de-sac context I consider that the main concerns associated with HMOs and the effect on the character and appearance of the area would be notable. The Council sets out in its evidence that issues include poor refuse management, neglect of gardens and a lack of property maintenance.

16. From my site observations I noted that there was no evidence of such issues currently. However, I am mindful that the proposal would intensify the number of tenants. Moreover, it is important to avoid assessments based on one group and to consider what would be the more likely effect of the development. Issues associated with HMOs have led to the special planning controls to restrict their proliferation within Southampton. This is a small cul-de-sac of ten properties that appears well maintained and I consider that having more than 10% as HMOs would be likely to bring the character and appearance of this suburban close down.

17. Therefore, given the context of the location and my findings on the first main issue I conclude on the second issue that the proposal would harm the character and appearance of the area. This would be contrary to 'saved' Policies SDP1(i) and H4(ii) of the City of Southampton Local Plan Review adopted March 2006 and the SPD which seek to protect character and appearance. I note that the document has been through review and further

examination in public prior to being adopted again in March 2015. I consider 'saved' Policies SDP1(i) and H4(ii) to have conformity with the Framework and attribute significant weight.

Other matters

18. The appellant has highlighted that no objections were received in the statutory consultation process and that the proposals would not affect the living conditions of the neighbouring occupiers. However, I consider these to be broadly neutral considerations in any planning balance.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

James Taylor

INSPECTOR