



Appeal Decision

Site visit made on 1 October 2019

by J E Jolly BA (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities

Decision date: 18 October 2019

Appeal Ref: APP/H2265/W/19/3227916

Bentall House, 7 Dry Hill Park Crescent, Tonbridge TN10 3BJ

- 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 Oliver Garsed-Bennet (Rapport Housing & Care) against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/18/02515/FL, dated 18 October 2018, was refused by notice dated 25 February 2019
 - The development proposed is change of use from a C2 care home with 11 bedsits, lounge and matron's flatlet to use as studio flats HMO.
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Decision

1. The appeal is allowed.
2. Planning permission is granted for the change of use from a Class C2 Care Home to a House in Multiple Occupation at Bentall House, 7 Dry Hill Park Crescent, Tonbridge TN10 3BJ in accordance with the terms of the application, Ref TM/18/02515/FL, dated 18 October 2018, subject to the conditions set out in Annex A.

Procedural Matter

3. For clarity, I have used the description of the proposal stated on the Appellants appeal form which requests a change of use from C2 care home with 11 bedsits, lounge and matron's flatlet to use as studio flats HMO.

Main Issue

4. The effect of the proposed development on the living conditions of neighbouring residential occupiers with particular regard to noise and disturbance.

Reasons

Living Conditions

5. The appeal site is located in a Conservation Area. Dry Hill Park Crescent has a range of large detached and semi-detached properties, some of which are occupied as single residential dwellings with off-street parking, while others appear to be used as school buildings and student accommodation. Bentall House is located at 7 Dry Hill Park Crescent and is close to Tonbridge town centre and public transport routes.

6. The proposal seeks a change of use from a Class C2 Care Home, which is said to be unviable, to a House in Multiple Occupation (HMO). No changes to the exterior of the building are proposed.
7. The proposed change of use would result in the bedrooms being used by individuals rather than residents of a care home.
8. The former use of the dwelling would have undoubtedly generated a level of daily activity related to the provision of care. For example, but not limited to, enjoyment of the communal garden, the arrival of staff and medical teams as well as visits from friends and family.
9. Similarly, the occupants of the HMO would receive visitors and potentially make journeys related to work and leisure. While these activities might well take place at different times of the day in comparison to those associated with the care-home they are likely to be movements not unexpected in a residential area with relatively high occupancy rates and differing uses. As such the proposed change of use will not significantly alter the existing relationship between the occupiers of the property and the nearby residential dwellings and buildings.
10. I note the concerns of the interested parties in respect of parking and traffic movements. However, Dry Hill Park Crescent is a residential area with no obvious parking restrictions. I observed some limited on-street parking opportunities at the time of my afternoon site visit. The availability of on-street parking may well rise and fall during the course of the day, but I have limited evidence before me to support this either way. Further, the close proximity of public transport routes offers an alternative to car journeys and the associated parking requirements.
11. Further, although the dwelling would be occupied by individuals the facilities provided would be adequate to meet that of multiple users. Facilities would include but are not limited to; areas associated with food preparation, cooking and refuse storage. These are normal activities associated with a residential dwelling. As such, light, noise, odour and other disturbances will be at a similar level to those generated by the former care home.
12. Consequently, the proposed change of use will not result in a level of increased activity that would cause unacceptable harm to the living conditions of neighbouring occupants or organisations by virtue of noise and disturbance.
13. Therefore, the proposal accords with Policies CP1 and CP24 of the Tonbridge and Malling Borough Council Core Strategy 2007 (TMBCS) and Policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010, which seek to ensure that all development should protect and conserve the character of the area, is well designed, respects the site and its surroundings and meets the needs of existing and future residents.
14. Similarly, paragraph 127 of the National Planning Policy Framework (The Framework) which seeks to ensure that development will function well, add to the overall quality of the area, be sympathetic of local character, and create attractive and welcoming places in which to live, work and visit.

Other Matters

15. I note the appeal site is located in a conservation area. However, as none of the main parties have indicated that the proposal fails to preserve or enhance the conservation area, and no external changes to the existing building are proposed I see no reason to disagree.
16. I also note that the council has directed me to an earlier appeal decision related to a similar change of use proposal. However, each appeal case is considered on its own merits, as I have done here. The earlier appeal related to the change of use of a single, semi-detached dwelling house rather than a care home already accommodating multiple occupants. Therefore, I find the said appeal is of limited relevance to this case.

Conditions

17. I have considered the suggested conditions against Paragraph 55 of the National Planning Policy Framework and the national Planning Practice Guidance and, in the interests of certainty, I have imposed the following conditions; a standard time limit condition and a condition requiring the retention of the existing curtilage vehicle parking to the front of the building to reduce the potential of on-street parking. Finally, conditions that ensure refuse storage arrangements; and cycle storage to encourage healthy life-styles.

Conclusions

18. I have found, for the reasons given above, that the proposal is in accordance with the Council's Development Plan and as such, the proposal should be approved without delay as per Paragraph 11(c) of The Framework, subject to the conditions in Annex A.

JE JOLLY

INSPECTOR

Annexe A – Conditions

- i) The development hereby permitted shall begin not later than three years from the date of this decision.
- ii) The existing curtilage vehicle parking to the front of the building shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.
- iii) The building shall not be first occupied until full siting and elevational details of refuse storage arrangements and cycle storage and parking have been submitted to and approved by the Local Planning Authority. The approved schemes shall be implemented prior to occupation and kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude refuse storage and cycle parking.

***** End of Conditions *****