



Appeal Decision

Site visit made on 6 November 2019

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2019

Appeal Ref: APP/L1765/W/19/3235791

2 Fiona Close, Winchester SO23 0HB

- 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 Wai Kee Cheng (C and P Homes Ltd) against the decision of Winchester City Council.
 - The application Ref 19/00714/FUL, dated 21 May 2019, was refused by notice dated 30 July 2019.
 - The development proposed is change of use from single dwelling to house in multi-occupation.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwelling house (C3) to 4 bedroom HMO (C4) at 2 Fiona Close, Winchester SO23 0HB, in accordance with the terms of the application, Ref 19/00714/FUL, dated 21 May 2019, and the plans submitted with it, as subsequently revised, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site and Location Plans PL01 and Existing Plans PL02.
 - 3) The occupation of the HMO hereby permitted shall be limited to a maximum of 4 persons at any time.
 - 4) The two parking spaces shown on drawing No. Fio001 shall be provided before the HMO hereby permitted is brought into use, and shall be kept available at all times for the parking of motor vehicles by the occupants of the HMO and their visitors and for no other purpose.

Procedural Matter

2. Notwithstanding that planning application drawing PL04 revision (Proposed Plans Option 2) shows a 5 bedroom layout, both parties have confirmed that the originally submitted proposal for a 5 bedroom HMO was altered during the consideration of the planning application to that of a 4 bedroom HMO. The description of development in the heading above has been taken from the planning application form. This differs from that of the appeal form which is change of use from C3 to C4 HMO, and from that of the decision notice, which

is change of use to 4 bed HMO. Having regard to the aforesaid change to the development proposal, I describe the development as change of use from dwelling house (C3) to 4 bedroom HMO (C4), since this is more precise than the banner heading description. My decision is based on drawings PL01 (Site and Location Plans) and PL02 (Existing Plans) only. I have not considered drawing PL04 revision (Proposed Plans Option 2).

Main Issue

3. The main issue is the impact on the living conditions of the residents of Fiona Close in respect of:
 - a) on-site parking provision; and
 - b) noise disturbance.

Reasons

4. The appeal property is a 4-bedroom, two storey, mid-terraced house located in Fiona Close, a small cul-de-sac off the south-east side of Easton Lane, within the Winchester suburb of Winnall. Fiona Close comprises 20 semi-detached and terraced residential properties. The Council has confirmed that, according to its records, two are in use as Houses in Multiple Occupation (HMOs). One of these, No.3, adjoins the appeal property, and the other, No.11, is a mid-terraced property located on the northeast side of the close.
5. The appellant has confirmed that the appeal property has been in continuous use as a private dwelling, and most recently let out as a 4 bedroom shared house. The appeal proposal is to use the property as a 4 bedroom HMO for Chinese students to attend the nearby School of Art.
6. Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) provides for the use of a dwelling house as a HMO by not more than 6 residents; that is, up to 6 unrelated individuals who share basic amenities.
7. Although the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) grants planning permission under Class L for a change of use from Use Class C3 (use as a dwelling house for up to 6 people living as a single household) to Use Class C4, the Council has, from 1 May 2018, put in force a Direction under Article 4 of the Town and Country Planning Act 1990 (as amended) (TCPA), that removes this permitted development right within the part of Winnall where the appeal property is located.
8. The Council has confirmed that the Winnall Article 4 Direction was imposed in order to maintain an appropriate mix of housing stock. This is in respect of the potential for the loss of a significant number of family houses through conversion to small HMOs carried out under permitted development rights, and the potential for an over-concentration of HMOs in any one area. The Council is concerned that this would create an unbalanced housing market, with increased pressure on parking provision, loss of amenity and tensions within communities.
9. Policy WIN9 of the Winchester District Local Plan Part 2 – Development Management and Site Allocations 2017 (LPP2) confirms that proposals for the

conversion of dwellings to HMOs within Article 4 Direction Areas will be permitted where they accord with the Development Plan and:

- i) would not create an over concentration of HMOs, with no more than 20% of all the properties in the total area being HMOs, or no more than 25% of the properties in any one street in use as HMOs; and
 - ii) would not result in a dwelling being bounded by HMOs on both sides, or a continuous line of 3 or more HMOs. Exceptionally the change of use of an existing dwelling to an HMO may also be permitted where its suitability for continued use is seriously compromised because of an existing domination by HMOs; and
 - iii) provides parking to meet the needs of the development taking into consideration the availability and adequacy of on-street parking.
10. The Council has confirmed that the appeal proposal accords with criteria i) and ii) of Policy WIN9, and that the appeal proposal would raise the percentage of HMOs within Fiona Close to 15%, and would be within the 20% figure for all properties within the total Article 4 Direction Area, which according to the Council's latest figures currently stands at 8.23%.
11. As such, whilst I acknowledge the neighbour concerns regarding the loss of a family dwelling house within the close, I find that the appeal proposal would accord with the aforementioned aim of the Article 4 Direction to maintain a balance of housing types, and with advice in Chapter 5 of the National Planning Policy Framework (the Framework), which encourages the provision of a mix of housing types to satisfy the needs of various community groups. I also note that the Council recognises that HMOs provide an important source of more affordable housing, providing an important housing supply for vulnerable households, those on lower incomes, students and young professional sharers.

Parking

12. The Council is concerned that the appeal proposal fails to provide adequate on-site parking in accordance with the requirement of criteria iii) of Policy WIN9, and that this would add to the existing parking pressures in the area to the detriment of other road users and the living conditions of the residents of Fiona Close.
13. The Council's parking standards are set out in the Residential Parking Standards SPD 2009 (Parking SPD) and require 3 on-site parking spaces for 4 bedroom dwellings. The Council has confirmed that this requirement also applies to HMOs. There is on-site parking at the front of the property for 2 cars, albeit the layout is constrained by a small tree on the site frontage. The appellant has submitted a parking layout drawing with the Appeal Statement, which includes the proposed removal of the tree and an improved layout for two parking spaces. Whilst three parking spaces are suggested by the appellant, I consider that the indicative third space would be unsatisfactory in terms of its size and layout, and that only two workable on-site parking spaces could be provided. As such, both the existing dwelling and the appeal proposal fail to comply with the Parking SPD requirements.
14. Paragraph 109 of the Framework advises that *"Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road*

network would be severe". Objections have been raised by neighbouring residents in Fiona Close concerned about inadequate on-site parking resulting in congestion and restricted access into and out of the Close adding to existing parking issues and danger to pedestrians within the Close. Neighbours have stated that the existing two student HMOs in the Close have brought additional cars into the Close which cannot be accommodated on site, and the Council's Traffic Engineer has acknowledged that there are existing parking issues within the Close. I note that single white lines have been painted on part of the Close to discourage street parking, and that the Council are considering the future prevention of on-street parking within the Close by means of yellow lines.

15. However, I have no detailed evidence of the level of the existing parking issues, and neither party has provided any parking surveys to confirm the extent of the issue. Although on-street parking is limited within the vicinity of the appeal site, I did not witness any localised parking problems, parking congestion or impeded access to the highway network within Fiona Close during my site visit. However, I acknowledge that this was only a snapshot during the day, and there may well be more on-street parking at other times, including the evening.
16. The Council has confirmed that the site lies outside the Winnall controlled parking zone where the Parking SPD allows for consideration to relaxing the parking standards. Notwithstanding this, the appeal site is in an accessible location within walking distance of local retail and community facilities and services of Winnall, Winchester Trade Park and Winchester City Centre and close to bus stops for services around the Winchester area. This is not, therefore, a location where the occupants need to be reliant on a private car for their day to day requirements.
17. Although the appeal proposal fails to comply with the Council's adopted parking standards, in considering the parking needs of the proposal, I have taken into account the fact that the current dwelling house also fails to meet the standards, and no increase in the number of bedrooms is proposed. I have also considered the proximity of the site to public transport routes and community facilities and services and the lack of substantive evidence before me of significant parking stress within the Close. On this basis, I find that the existing on-site parking, improved by the removal of the frontage tree, as shown on the appellant's drawing Ref Fio001, would meet the transport needs of the development. As such, there would be no significant harm to the living conditions of the occupants of Fiona Close as a result of the parking provision for the proposed development. Notwithstanding this, having regard to the limited opportunity for on-street parking within the cul-de-sac, and the Council and neighbour concerns in this respect, I consider that the provision and future retention of the two parking spaces should be secured by a planning condition.
18. The appellant states that the property would be occupied by overseas students who do not drive and do not have UK driving licences and that a tenancy agreement would only allow for up to 2 cars for the residents. It is also proposed that, should the owners decide to stop accommodating overseas students, the property would be sold as a dwelling house and not as a HMO. The appellant proposes that these matters be controlled via planning conditions. However, I do not consider such conditions to be reasonable, or necessary, for the aforementioned reasons.

19. For the above reasons, whilst the development does not strictly accord with the parking standards of the Parking SPD, given the nature of the change of use proposed, which in the absence of an Article 4 Direction, would not require planning permission, the location of the appeal site in relation to public transport routes and community facilities and services, and the lack of compelling evidence of parking stress arising from the development, I conclude that the development provides adequate on-site parking, having regard to the transport needs of the property, the impact on the living conditions of neighbouring occupants, and highway accessibility and safety. The development therefore accords with the objectives of LPP2 Policies WIN9 and DM18, insofar as they seek to ensure that development proposals provide parking which satisfies the needs of the development, taking into account the availability and adequacy of on-street parking, and LPP1 Policies DS1 and CP13, which require new development to contribute to individual and community well-being and respond positively to its neighbours.

Noise disturbance

20. The Council is concerned that the appeal proposal would result in increased levels of activity and disturbance arising from the number of separate and unrelated individuals coming and going from the site, which would adversely affect the quiet character of the cul-de-sac to the detriment of the living conditions of the occupants of neighbouring dwellings.
21. Residents of Fiona Close have raised concerns about potential noise disturbance, including during unsocial hours, to the small, quiet close, whose occupants include families and the elderly. With four tenants coming and going, there would likely be some general noise and disturbance. Whilst I accept that some properties in the close may be occupied by elderly persons and young families, there is no restriction on the potential age range of the occupants of the Close. I consider that the noise and disturbance from the occupants of the proposed HMO coming and going would not be significantly different to that from a large family where there would potentially be journeys to work, school and social events. I do not consider that the comings and goings as a result of the proposed development would be likely to lead to undue harm to the occupants of the neighbouring properties by virtue of noise and disturbance. Other potential forms of noise and disturbance such as the playing of loud music, partying, or social activity in the garden would not necessarily be any more likely to cause harm to neighbouring residents than would be the case with a large family, which could easily be accommodated within the 4 bedroomed property.
22. In making this assessment I have had regard to the comments of the Council's Environmental Protection Officer, whose initial objection on noise grounds to the originally proposed 5 bedroom HMO was withdrawn, following the revision of the scheme to a 4 bedroom HMO, on the grounds that the existing dwelling house also comprises 4 bedrooms.
23. Therefore, based on the information before me, and for the reasons set out above, I find that there is no cogent evidence that the use of the appeal property as a 4 bedroom HMO would be over-intensive, and would thereby harm the living conditions of residents of Fiona Close in terms of noise disturbance. The appeal proposal would therefore accord with LPP1 Policies DS1 and CP13 and LPP2 Policy DM17, in so far as they require new development to

contribute to individual and community well-being, respond positively to its neighbours, and not cause unacceptable levels of noise pollution to neighbours.

Other Matters

24. I have taken account of the neighbour concerns with respect to the unkempt appearance of landlord-let properties within the Close. This is not a determining factor in the consideration of this appeal, and would be a matter for the landlord to resolve, regardless of whether or not the appeal property is used as a HMO.
25. I have acknowledged the neighbour concerns regarding drainage. The Council has raised no objection with respect to this matter and I have not been presented with any evidence of any localised drainage issues. I do not, therefore, consider that this is a determining factor in the consideration of this appeal.

Conditions

26. I have considered the Council's suggested conditions in accordance with Paragraph 55 of the National Planning Policy Framework and the National Planning Practice Guidance. In addition to the standard implementation condition, it is necessary to define the plans for certainty. I consider that, in the interests of clarity, the convenience of highway users, and ensuring appropriate living conditions of occupants of neighbouring properties, a condition is necessary to limit the number of residents to 4 at any one time. That accords with the amended details of the planning application, and is necessary since, whilst I have found that number of occupants not to be harmful, any increase above this would need to be assessed against relevant development plan policies. A condition is also required to ensure the provision of adequate car parking.

Conclusion

27. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR