
Appeal Decision

Site visit made on 17 December 2019

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Appeal Ref: APP/W2465/W/19/3239521

41 Dulverton Road, Leicester LE3 0SB

- 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 Umesh Kalra of Kalra Property Services Ltd against the decision of Leicester City Council.
 - The application Ref 20191055, dated 3 June 2019, was refused by notice dated 25 September 2019.
 - The development proposed is change of use from C4 (six bedroom) HMO to Sui Generis (seven bedroom) HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw that all the rooms identified on the submitted plans were already occupied and thus the change of use appears to have already taken place. I have considered the appeal on this basis. No physical alterations are proposed as part of this development. However, I saw that two windows shown on both the 'existing' and 'proposed' plans in 'Bedroom 7' do not exist.

Main Issues

3. The main issues are the effect of the development on (i) living conditions in two of the bedrooms, with particular regard to daylight and outlook and (ii) the demographic balance of the area.

Reasons

Living conditions

4. I had the opportunity to view all the rooms in the building. The bedrooms are of a size where it would not be realistic to accommodate any more than one person. I considered the effect of the development on this basis. Residents have access to a relatively large communal kitchen, a small communal living area and three shared WC/shower rooms. The attic room has its own *en suite* facilities.
5. The attic room contains two small roof lights only. These are the only source of light and outlook. The only way to see anything other than sky from the roof lights is to stand. Even standing, many people would still not be able to see out of them comfortably. All that can realistically be seen when standing are the roofs of nearby dwellings. The size and layout of the room also makes it

likely that at least one of the roof lights would always be affected by the bed. This further restricts the extremely limited and unsatisfactory outlook from this room. I do not consider this is an acceptable situation.

6. Much of the limited space in the room is also affected by the roof slope. This creates a somewhat confined environment with little circulation space. The effects of this are exacerbated to a significant degree by the lack of adequate outlook. This creates an overt sense of confinement and enclosure which tangibly diminishes the quality of the interior environment to the material detriment of the living conditions of any occupants. This is not mitigated by the *en suite* facilities, which in effect make the habitable space smaller. When considering the small scale of the communal spaces, particularly the area marked as the living/dining area, this room is likely to be where occupants will spend most of their time. Taking all these factors into account, I find that the lack of outlook results in an unsatisfactory living environment. I do not consider that the location of the dwelling in a built-up area means that a reduced outlook is either to be expected or justifies the quality of environment created.
7. The Council's other main concern is with light and outlook from Bedroom 7. The appellant has not submitted any substantive evidence to demonstrate that the room receives sufficient daylight or sunlight to ensure a reasonable standard of accommodation. The location and orientation of the only window means that there are likely to be long periods of the day when the room receives little or no direct sunlight. The height and proximity of neighbouring buildings is also such that it is reasonable to assume there would be some impact on daylight, particularly considering the relatively narrow gap between dwellings. Without evidence to the contrary, it would be reasonable to assume there will be times when the room will be a somewhat gloomy space.
8. In terms of outlook, the window looks across the side passages of No 41 and No 43 and faces the equivalent window of the neighbouring property. While the opposite building is around 4.5 metres away from the window, this does not provide a particularly extensive or open outlook. Again, whether this is acceptable must be considered in the context of this room being the primary habitable space for any occupant.
9. In this case, the constrained nature of the outlook would combine with the likely impacts of reduced daylight and sunlight at certain times of the day, to create a dark and unduly oppressive and confined space. I am not therefore persuaded by what I have seen that this room can provide a satisfactory living environment.
10. In conclusion on this matter, I find that at least two of the bedrooms fail to provide a satisfactory living environment as a result of inadequate daylight or sunlight and/or inadequate outlook. As such, the building could not adequately accommodate seven people without harm to the living conditions of some occupants. Accordingly, there is conflict with saved City of Leicester Local Plan (2006)(LP) Policy PS10, which seeks to protect the amenity of existing or future residents. Although outlook is not mentioned specifically in this policy, there would still be conflict with paragraph 127f of the National Planning Policy Framework. This seeks to ensure a high standard of amenity for existing and future users.

Demographic balance

11. The Council's officer report acknowledges that the pre-existing use of the building is a House in Multiple Occupation (HMO) under the C4 Use Class. This allows up to 6 people to live in the building. Notwithstanding my concerns over living conditions, the development would allow the occupation of one additional occupant. However, whether or not the appeal is allowed or dismissed, the use of the building would remain an HMO.
12. Policy 8 of the Leicester Core Strategy (CS)(2010) states that new HMOs requiring planning permission will not be permitted where they would result in a local over concentration of such uses. The Council's officer report states that the site is in an area where a concentration of multiple occupancies has been identified as a potential problem. However, it provides no information on what area is affected, the concentration of HMOs within it or the severity of any problems that exist. Furthermore, it does not confirm whether there has been any formal recognition that the site is in an area of over concentration.
13. There is reference to a nearby area where an Article 4 Direction has been imposed which ostensibly removes permitted development rights for conversion to HMOs. It would be reasonable to assume that that is an area where the Council has recognised concerns. However, the site is not taken in by the Direction and thus it has no particular bearing on this case. That the Direction does not extend to this area does however suggest that problems associated with HMOs may not be as severe here as in other locations.
14. The appellant has put forward various evidence which seeks to demonstrate there is no over concentration of HMOs in the vicinity of the site. The Council has not disputed any of the data produced or the appellant's conclusions. There is anecdotal evidence from interested parties which questions the appellant's conclusions and identifies other HMOs on Dulverton Road. However, this is not sufficient to demonstrate there is an over concentration in the wider area or that this is having an adverse impact on the maintenance of mixed communities.
15. Based on the evidence before me, I cannot conclude with any certainty that the change of use from one type of HMO to another would cause or exacerbate any demographic imbalance in the area. On this basis, I find no conflict with CS policies CS06 or CS08 which seek, amongst other things, to ensure HMOs are not permitted in areas of over concentration or that conversions result in demographic imbalance.

Other matters

16. In coming to my conclusions, I have had regard to the appellant's comments on the quality of the décor, the management arrangements, the market to which the accommodation is geared and the accessibility of its location. These matters do not justify inadequate living environments or outweigh my concerns.
17. I acknowledge that the Council raised no concerns over the size of the bedrooms, parking, highways or the living conditions of neighbours. As I have found the development to be unacceptable for other reasons, there is no need for me to consider these matters further. Nevertheless, even if I were to agree with the Council's conclusions, a lack of harm is neutral and weighs neither for

nor against the development. There are therefore no material considerations that would lead me to a different overall conclusion.

Conclusion

18. Notwithstanding my findings on the demographic impact of the development, for the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR