
Appeal Decision

Site visit made on 10 December 2019

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/D1835/W/19/3237422

27 Comer Road, Worcester WR2 5HU

- 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 Mark James (Mark.james) against the decision of Worcester City Council.
 - The application Ref 19/00411/FUL, dated 5 June 2019, was refused by notice dated 28 August 2019.
 - The development proposed is change of use from C3 to C4 (small HMO with six bedrooms) retaining flexible use between the classes and change of internal layout.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Mark James against Worcester City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - The effect of the proposal on the mix and balance of housing in the area, having particular regard to the number of houses in multiple occupancy (HMOs); and
 - Whether the proposal would provide an adequate standard of accommodation for potential future occupiers, having particular regard to outlook, daylight and sunlight.

Reasons

Over-concentration of HMOs

4. The appeal site is within a predominately residential area and comprises a detached property set back from the road with parking to its frontage. There are a mix of property styles and sizes in the surrounding area. Comer Road is a busy road which appeared on my site visit to be a main route for vehicular traffic, including local bus services.
5. The proposal would change the use of the building to an HMO with 6 bedrooms to be provided on the ground and first floors along with communal living areas to the rear of the property on the ground floor.

6. The Council have made an Article 4 (1) Direction which requires changes of use from Class C3 (dwelling houses) to Class C4 (HMO) to obtain planning permission. Policy SWDP 14 of the South Worcestershire Development Plan, 2016 (SWDP) states that applications for change of use to an HMO will only be permitted where it does not lead to, or increase, an existing overconcentration of such uses in the local area.
7. The Houses in Multiple Occupation Supplementary Planning Document, 2014 (SPD) defines an overconcentration as more than 10% of residential properties being in use as HMOs within 100metre radius of the site. In this case the proposal would result in 21% of properties being in use as HMOs within 100m of the appeal property. It would therefore increase the existing over-concentration of such uses in the area, contrary to Policy SWDP 14.
8. In exceptional circumstances, the SPD states that planning permission may be granted in areas that have a "very high concentration of HMOs", where it can be demonstrated that there is no market demand for the continued use of the property as a dwelling. In response the appellant has submitted marketing details showing that the property was marketed by two estate agents for a period of between 8 to 9months.
9. The SPD does not define a threshold above which the exceptional circumstances apply, or, what constitutes an 'over-proliferation' of HMOs. However, in this case the appeal proposal would result in 21% of properties being in use as HMOs within 100m of the site. The appellant has also indicated that there would be 37.5% of properties in HMO use on this part of Comer Road, though there is a lack of detail in the evidence before me to demonstrate how this has been determined or the extent of properties it relates to.
10. Nevertheless, whilst the 10% threshold is already exceeded, the number of HMOs is not indicative of an area which is already dominated by such uses. Based on the evidence provided and observations at my site visit the exceptional circumstances referred to in the SPD do not apply to the appeal site.
11. In reaching my conclusion against the first main issue I have taken into account that the appeal property was marketed for 8 to 9 months, that the price was reduced during that period and works were carried out to the property. However, no specific details have been provided to demonstrate that the lack of any offers was due to the proliferation of HMOs nearby. The weight I can attribute to the marketing evidence is therefore limited and does not justify granting planning permission for a development not in accordance with development plan policy.
12. It is acknowledged that pre-application advice was provided, however the Council is not bound by such informal advice. Moreover, I am required to consider the proposal before me on its merits, having due regard to relevant development plan policies and other material considerations. I have therefore determined the appeal on that basis, finding, for the reasons set out above that the proposal would lead to a harmful over-concentration of HMOs in the area surrounding the site.
13. The proposal would further increase the concentration of HMOs in the locality, adding to the unbalance within the community and associated issues with HMOs. As such the proposal would be contrary to SWDP Policy SWDP 14, and

the aims and objectives of the SPD, which seek to control the number of HMOs in an area to minimise the negative impacts over concentrations of HMOs can have, and to ensure that residential areas are home to mixed and balanced communities.

Future occupiers

14. Two of the proposed bedrooms would be located on the ground floor at the front of the property. Bedroom 5 would have one window to the side elevation and there would be little separation between it and the flank elevation of the adjacent property. As a result, the outlook from the bedroom window would be severely restricted. Due to the proximity and height of the adjacent dwelling it would be a dominant feature and result in an unacceptable sense of enclosure when inside the property. The window would also receive limited daylight and sunlight.
15. Although communal areas would be provided it is reasonable to expect that occupiers of an HMO, living independently of one another, may choose to spend more time in their private space. The occupier of Bedroom 5 would partly live in unacceptable, gloomy accommodation that would have a poor outlook, adversely affecting their living conditions.
16. The appellant states the room already provides living accommodation as part of the existing dwelling, though the submitted plans indicate it to be a garage. Nevertheless, the outlook and levels of natural light in the room would have a materially different effect on occupier's living conditions as part of a family house where occupiers would be reasonably expected to spend more time living communally, and the use of rooms is likely to be more flexible throughout the house.
17. The SPD does provide guidance as to the basic requirements in relation to washing, heating, kitchen and fire precaution equipment for HMOs. Achieving these criteria, or those necessary to gain an HMO licence, does not necessarily equate to an acceptable development and each site needs to be considered on its own merits.
18. The window to Bedroom 6 would overlook the proposed parking and Comer Road. Future occupants may experience some increased disturbance from general comings and goings though the property is set well back from the frontage providing separation to the public footpath and highway. The plans also indicate there would be some separation between the parking spaces and the window to Bedroom 6. As such the outlook from Bedroom 6 would not be dominated by parked vehicles to an extent that it would harm occupiers' living conditions.
19. The appellant has stated that the council have permitted HMO proposals where bedrooms had a more restricted outlook than that proposed, such as within basement rooms. I do not know the full circumstances of those schemes, though in any event I must consider the appeal scheme on its own merits.
20. Whilst I have not found harm in respect of Bedroom 6, as detailed above, future occupiers of Bedroom 5 would have a poor outlook and reduced levels of daylight and sunlight, resulting in unacceptable living conditions. The proposals would therefore be contrary to SWDP Policy SWDP 21, as supported by the South Worcestershire Design Guide Supplementary Planning Document:

Overarching Design Principles, 2018, and which seeks to ensure all developments are of a high quality, being fit for purpose, functioning well and providing adequate light.

Conclusion

21. For the reasons stated above I therefore conclude that the appeal should be dismissed.

A Denby

INSPECTOR