



Appeal Decision

Site visit made on 18 February 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2020

Appeal Ref: APP/Y1945/W/19/3242225

6 Westland Road, Watford WD17 1QS

- 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 Darby Property Limited against the decision of Watford Borough Council.
 - The application Ref 19/01058/COU, dated 12 September 2019, was refused by notice dated 4 November 2019.
 - The development proposed is the change of use from C3 to a large 7 bedroom HMO (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from C3 to a large 7 bedroom HMO (sui generis) at 6 Westland Road, Watford WD17 1QS in accordance with the terms of the application, Ref 19/01058/COU, dated 12 September 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 1561/102 Revision D.
 - 3) The property shall only be used as a house in multiple occupation (HMO) for a maximum of 10 residents.

Procedural Matters

2. On 8th January 2020 the Council issued a Certificate of Lawful Development which confirms the change of use of the property from a dwellinghouse (Class C3) to a House in Multiple Occupation (HMO) for no more than 6 residents (Class C4) to be a lawful development. During my site visit I observed that the property has been internally laid out in a manner which would facilitate its use for this purpose and therefore, although at the time of my visit the property was vacant, it appears highly likely that it will be used as a HMO within Class C4 in the event that this appeal were to be unsuccessful. This is a viable fallback position and I have had regard to it in reaching my decision.
3. The conversion of the dwelling that has taken place would also facilitate its occupation as a 7 bedroom HMO, which is the subject of this appeal. The Council's reason for refusal and delegated report make reference to the proposed development being for the provision of 2 flats and a 5 bedroom HMO, but this is not what is specified on the application form or reflected in the description given on the decision notice. Furthermore, the appellant has stated

that they did not agree to the change in the form or type of development which is proposed. I must therefore proceed to determine the appeal based upon the proposed development that the appellant applied for, which is that stated in the banner header above.

4. The appellant has however provided an amended plan (1561/102 Revision D) to omit kitchens from bedrooms 2, 4 and 7, for the avoidance of any doubt that the proposed development is solely for a 7 bedroom HMO or that any of the rooms in question are intended to form self-contained flats. This plan is helpful in clearly defining the scope of the proposed development and I do not consider that accepting it in substitution for the plan that the Council considered (1561/102 Revision B) would prejudice the interests of either party. I therefore base my assessment of the appeal on plan 1561/102 Revision D.

Main Issues

5. The main issues are (i) the principle of the proposed development in this location, (ii) the impact upon living conditions with particular reference to whether the internal space provided would provide acceptable living conditions for future occupiers and (iii) the impact upon the public highway with regard to parking.

Reasons

Principle of the development

6. The proposed development would result in the loss of a dwellinghouse which the Council considers to be suitable for occupation by a family. Policy HS2 of Watford's Local Plan Part 1 – Core Strategy 2013 (CS) seeks to promote a mix of housing types, sizes and tenures and Saved Policy H13 of the Watford District Plan 2000 (DP) sets out a specific threshold of 10% of the existing residential frontage in a street block, beyond which the sub-division of existing dwellings, including into HMOs, would not be acceptable.
7. The Council considers that at the present time 71% of the street block has already been converted or sub-divided and based upon my observations at my site visit I have no reason to dispute this figure. The proposed development would therefore further erode the presence of dwellinghouses in the area, which is already substantially beyond the 10% threshold, and this would be contrary to the specific objectives of Saved Policy H13 of the DP and the more strategic aims of Policy HS2 of the CS.
8. However, the fallback position of a 6 person HMO would also result in the sub-division of the dwelling and the property has already been converted to allow occupation on this basis. In both the case of the 6 person and the 7 bedroom HMOs, the dwelling would be lost as family housing, and I give this fallback position significant weight. Visually, the HMO would be indistinguishable from the appearance of a family dwelling and therefore the proposed development would not conflict with the criterion of Saved Policy H13 of the DP which seeks to protect character and in particular the residential frontage of the street block.
9. Reference has been made to other appeal decisions relating to the loss of family housing in the borough, however only limited information has been provided in relation to these. In any event, I am required to consider this

appeal primarily upon its own merits and therefore I have proceeded on that basis.

10. For these reasons I conclude that, although there would be conflict with Policy HS2 of the CS and Saved Policy H13 of the DP in that the loss of a family dwelling would result, the fallback position and the works already undertaken mean that it is highly likely that the existing dwelling would be lost and a 6 person HMO created, should this appeal not be successful. I give this fallback position significant weight and it outweighs the conflict with the CS and DP Policies that would occur.

Living conditions

11. The Council's reason for refusal raises concerns that inadequate details relating to the internal head heights of bedrooms 5 and 6 have been provided. However, having viewed the rooms internally, only a very small part of each room is affected by the pitch of the roof located above it, and this impact does not affect the usability of either room. Both rooms therefore achieve adequate head height to ensure that appropriate living conditions would be provided for their occupiers.
12. The Council has also referred in its reason for refusal to what it considers to be two flats shown on the submitted plans and it has outlined its concerns that substandard levels of accommodation would be provided for such a development. These concerns arise as flats would require increased amounts of internal and external living space. However, it has been established that the appeal proposal does not include the provision of flats.
13. Representations have been submitted which raise concerns relating to loss of privacy, outlook, overdevelopment and overcrowding of the area, noise and the impact upon the environment. However, these concerns could equally apply in the case of the fallback 6 person HMO. Whilst there may be more occupants of the property as a result of the appeal proposal, this would not materially intensify any of the impacts that would arise in what is already a densely populated urban town centre location.
14. For these reasons, I conclude that the proposed development would provide appropriate living conditions for the occupiers of the proposed HMO and would not cause harm to the living conditions of the occupiers of adjacent properties. Accordingly, there would be no conflict with the aims of the Residential Design Guide Supplementary Planning Document 2016.

Parking

15. Westland Road is a Controlled Parking Zone which restricts parking at certain times to those people who hold permits. The appellant has provided a planning obligation which seeks to restrict the number of parking permits associated with the property to 6, on the basis of the lawful use of the property that has been established. Although signed and dated, the appeal reference given throughout the planning obligation is incorrect and therefore I have concerns that the obligation has not been correctly executed as a deed which would bind itself to a planning permission arising as a result of this appeal. Accordingly, I proceed on the basis that the planning obligation would not be effective in controlling the issuing of resident parking permits.

16. Notwithstanding this however, the Council has provided correspondence which states that the entitlement of 2 permits which applied to the C3 dwelling would remain unchanged in the event of the property becoming a HMO. Therefore, the appeal development would not result in more permits being issued and it would not lead to increased pressures on on-street parking availability.
17. For these reasons, I conclude that the proposed development would not result in harm due to an increase in on-street parking congestion. There would therefore be no conflict with the aims of Saved Policy T24 of the DP, which seeks to ensure that new developments address matters relating to parking.

Conditions

18. The Council has suggested that conditions relating to the time period for commencing development and to the approved plans should be imposed in the event that the appeal is allowed. Both are necessary to provide certainty.
19. The Council has also suggested that the number of people that can reside in the HMO should be limited to 7, to safeguard the living conditions of neighbouring properties and to prevent intensification of use which may not be suitable for the site or context. However, both the Council's delegated report and their appeal statement clearly set out a view that occupation by up to 12 people would not result in harm to the living conditions of the occupiers of neighbouring properties. Based upon this and my own findings on living conditions, a restriction in occupation to 7 would not be reasonable or necessary on this ground. Unidentified impacts that may arise from a potential intensification of the use does not provide a specific enough justification for restricting the occupancy to 7.
20. I do however consider that some degree of occupancy restriction is both reasonable and necessary, in order to ensure that in planning terms the internal and external space available per occupier is reasonable to meet their needs. In this respect I have been directed by the Council to the comments of their Environmental Health department, but these are not conclusive as they refer to the scenario which includes 5 bedrooms and 2 flats, and not a 7 bedroom HMO.
21. The submitted plan demonstrates that 3 of the bedrooms are larger than the others and these are shown to be double rooms, each with their own private bathroom facilities. They are of a size that could reasonably be occupied by 2 people, with the remaining rooms being single rooms of a size suitable to be occupied by 1 person each. This would require a limit on the occupancy to 10 people. With regard to the communal facilities, the space available is reasonable to provide facilities and amenities that would meet the needs of up to 10 residents. For these reasons I impose a condition restricting occupancy to this level.

Conclusion

22. For the reasons given above, I conclude that the appeal, subject to conditions, should be allowed.

Graham Wraight

INSPECTOR