
Appeal Decision

Site visit made on 14 January 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2020

Appeal Ref: APP/U4610/W/19/3238365

28 Old Mill Avenue, Coventry CV4 7DY

- 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 Accharjit Dhadwal against the decision of Coventry City Council.
 - The application Ref FUL/2019/1722, dated 28 June 2019, was refused by notice dated 3 September 2019.
 - The development proposed is use of dwelling as two 5-bedroom flats (Class C4).
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Decision

1. The appeal is allowed and planning permission is granted for use of building as two 5-bedroom flats (Class C4) at 28 Old Mill Avenue, Coventry CV4 7DY in accordance with the terms of the application, Ref FUL/2019/1722, dated 28 June 2019, and the plans submitted with it, 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 drawings: 1:1250 (Location plan); 2280/3 – Plans as proposed; and, 2208/5/C – Site plan and 2208/6 – Plan as proposed cycle store.
 - 3) The use hereby approved shall not commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:
 - (a) a specification for planting (species, size and location);
 - (b) a method and programme for its implementation and the means to provide for its future maintenance.Thereafter the approved landscaping scheme shall be undertaken and maintained in accordance with the approved details.
- 4) The use hereby approved shall not commence until the proposed parking spaces, electric vehicle charging points, cycle shelter incorporating cycle stands and refuse/recycling storage facilities have been provided and made available for use in accordance with details shown on drawings: 2208/5/C – Site Plan and 2208/6 – Plan as proposed cycle store. Thereafter the parking spaces, electric vehicle charging points, cycle shelter incorporating cycle stands and refuse/recycling storage facilities shall remain available for use at all times.

- 5) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, or any Order revoking and re-enacting that Order with or without modification, each flat for Class C4 use hereby approved shall not be occupied by more than 5 residents at any time.

Procedural Matter

2. The description of the development on the appellant's application form, refers to the appeal property as a dwelling. However, the appeal submissions confirm that the appeal property is occupied as two 5-bedroom flats (use class C3) following the grant of planning permission in 2019¹. I have proceeded with the appeal on this basis. I have also substituted the word 'dwelling' for 'building' in the description of the development in my Decision to better reflects this.

Main Issue

3. The main issue is whether the proposal represents an over intensification of the use of the property which would, in turn, cause detriment to the living conditions of the occupiers of neighbouring properties.

Reasons

4. The appeal site comprises 28 Old Mill Avenue (No 28) a semi-detached property in a residential area. This property previously formed part of a larger detached property which has subsequently been divided into two properties. No 28a Old Mill Avenue (No 28a) is the other pairing semi to the original property.
5. The appeal proposal seeks to convert the property into 2, 5-bedroom flats for use class C4. This would allow the occupation of each flat by not more than six residents as a "house in multiple occupation" (HMO). The submitted plans show that the proposed flats would have 5 en-suite bedrooms each, and communal kitchen and lounge. The ground floor flat would have access from the front and the first floor flat would have separate access from the side. The proposal includes the provision for 5 parking spaces on the forecourt and refuse/recycling and cycle storage facilities in the rear garden.
6. Amongst other things Policy H11 of the Coventry Local Plan 2016 (LP) which specifically relates to HMO proposals, seeks to prevent material harm to the amenities of nearby properties.
7. I acknowledge that the pattern of activity within an HMO would be different to that associated with a family dwelling. In particular, a property that could be occupied by up to 10 individuals leading independent lives. As a consequence, the occupancy including associated comings and goings would result in a more intense and varied pattern of activity than that associated with a family dwelling. These factors could manifest in additional noise and disturbance for adjoining neighbours.
8. However, in this case based on the information before me, both properties either side of the appeal site are in residential use and therefore the proposal introduces a compatible residential use. Furthermore, No 28 is an extended property occupying an extensive plot. This includes a deep frontage and a sizeable rear garden that backs onto school playing fields. These characteristics

¹ FUL/2019/0866 - Change of use to 2 flats (use class C3) Approved 28 May 2019

- along with a generous internal layout, make the property of a sufficient size to facilitate the extent of accommodation proposed and activity associated with it.
9. In addition, the extant use of No 28 could accommodate large households, for example extended families. This type of occupation would also generate some variation in pattern and activity undertaken by different generations of a family, for example parents going to work and separate activities associated with children and their schooling. There is also the intensification of activity associated with two separate households occupying the single building.
 10. Internally, the proposed flats incorporate living areas for communal use. Nevertheless, I have no clear reasons why up to 5 individuals residing in each flat along with any visitors and the activity associated with this, would be significantly more intense than the use of No 28 as two sizeable family dwellings. In reaching this conclusion, I am mindful that in a HMO, the routines of individuals are likely to vary. Therefore, it is unlikely that all the residents would be using communal areas together at any given time.
 11. I have also noted the Council's concerns about the cumulative effects of the proposal along with No 28a, which can be occupied by up to 6 individuals and has 2 parking spaces. This could occur as a consequence of external activity, including pedestrian and vehicular movements to and from the property, along with noise generated by vehicles and that associated with the use of gardens.
 12. As already stated, 5 parking spaces are proposed for the appeal scheme. Notwithstanding this, the appeal site is near to bus stops and within reasonable walking distance of the Science Park, Warwick University and the Cannon Park Shopping Centre, which includes a number of shops and facilities, including buses to and from the City Centre. Therefore, a range of shops and facilities to meet the day to day needs of future residents are accessible by walking, cycling and public transport. As such, the appeal site is in a sustainable location. Therefore, it is likely that a high proportion of future tenants, particularly students would not need access to a car, which would further limit vehicular activity.
 13. Furthermore, both properties would have separate driveways and there is also an appreciable degree of separation between the entrances proposed for the flats at No 28 and that to No 28a. The rear gardens of these properties are also enclosed from each other and neighbouring properties. Thereby, reducing potential for cumulative impacts.
 14. Moreover, in terms of the effects on the wider area, to the south, 30 Old Mill Avenue is detached from No 28 and also occupies a spacious plot. There is also a good degree of separation from the properties opposite the appeal site. Consequently, I do not consider that the cumulative effects of activity associated with the proposal and the use of No 28a would have any significant effect on the living conditions of the occupiers of neighbouring properties.
 15. There are allegations of loud chatting noises emanating late at night from numbers 28 and 28a and the occupants of these properties leaving rubbish in the street. However, the supporting text to Policy H11 of the LP seeks to monitor concentrations of HMO to ensure any adverse impacts are managed and combated. Despite this, there is no substantive evidence to support these allegations. Most notably, the Council's Environmental Protection team has raised no objection to the proposal.

16. For the reasons set out above, in this case, the proposal does not represent an over intensification of the use of the property which would, in turn, cause harm to the living conditions of the occupiers of neighbouring properties. As such, the proposal is not in conflict with Policy H11 of the LP.
17. Accordingly, I also find no conflict with the aims of the National Planning Policy Framework ('the Framework') which amongst other things seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

18. Having regard to the appellant's parking survey, the sustainable location of the site and provision for cycle storage facilities, the level of parking for the proposed use is acceptable. The parking layout is practical and whilst there may be some visitor and service parking likely on the highway, in light of my observations and the information available to me this is unlikely to give rise to any significant highway safety issues. My findings on these matters are supported by the lack of objection from the Highway Authority.
19. There is some local concern over the number of dwellings being occupied by students in the locality of the appeal site, which is allegedly resulting in financial loss to the Council, as a consequence of council tax paying residents being replaced by tax exempt students. Further, that this is leading to families moving away from the area. However, I have no substantive evidence before me in respect of these matters. In particular, I have not been made aware of any such issues by the Council. Based on the foregoing reasons, I am also not persuaded that the use of the proposal would individually or cumulatively affect the character of the area.
20. Applications for other similar proposals would have to be assessed on their merits, having regard to the relevant considerations specific to each property at that time. As such, my findings in relation to this appeal would not set a precedent for future proposals.

Conditions

21. Having regard to the tests in the Framework and the advice in the Planning Practice Guidance, I have imposed the statutory time limit condition for the implementation of the planning permission. Conditions requiring that the development is carried out in accordance with the approved plans, along with the provision of parking spaces, electric charging points and refuse/recycling and secure cycle storage facilities are necessary in the interest of certainty and the satisfactory functioning of the development. Although there is some landscaping at the appeal site, this is to be altered and limited details have been provided in respect of this. Therefore, in the interests of the appearance of the area, I have imposed a condition requiring a landscaping scheme.
22. A condition to restrict the number of residents occupying the property is necessary, as while I have found that 10 occupiers of the property (5 in each flat) would not be harmful, any increase above this would need to be assessed against relevant policies of the development plan. With respect to the appellant's suggested condition for the submission of a Resident's Management Plan, based on my findings on the main issue, I have no clear reason for imposing this.

23. Conditions 3 and 4 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect.

Conclusion

24. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR