



Appeal Decision

Site visit made on 27 January 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2020

Appeal Ref: APP/T3725/W/19/3240470

19 Camberwell Terrace, Leamington Spa CV31 1LP

- 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 R Scimeca, RLS Property Limited against the decision of Warwick District Council.
 - The application Ref W/19/1299, dated 31 July 2019, was refused by notice dated 25 October 2019.
 - The development proposed is reapplication for change the use of C3 (dwelling) to C4 (House in Multiple Occupation) for up to six residents (Retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Decision Notice describes the development proposed as, "change the use of C3 (dwelling) to C4 (House in Multiple Occupation) for up to six residents (Retrospective Application)". I have used the description on the planning application form in the header.
3. It is apparent from the evidence that the appeal property is in use as a House in Multiple Occupation (HMO) and has been so for some time. Therefore, this appeal is seeking to regularise the development in respect of change of use that has already occurred. Accordingly, I have dealt with the appeal on this basis.

Main Issues

4. The main issues are:
 - (i) Whether the change of use to an HMO is acceptable in principle.
 - (ii) The effect on living conditions of neighbouring occupiers including noise and disturbance and dealing with waste.

Reasons

The principle of the development

5. Camberwell Terrace is a street of mainly terraced properties. The appeal site (No 19) is a two-storey terraced house with additional living space in the roof. No 19, and the other terraced dwellings nearby have small front amenity spaces behind low brick walls or in the case of No 19, metal railings. Most of these areas are used by residents to store bins. The Victoria Business Centre

lies to the south and rear of the appeal site. This includes a number of business units located in the arches of a former railway line. There is pedestrian access to the business centre from Camberwell Terrace. At the eastern end of Camberwell Terrace a pedestrian walkway leads into Styles Close which is part of a more modern housing estate. Camberwell Terrace joins Radford Road where most of the properties are in residential use including a modern development comprising flats and maisonettes.

6. The change of use to an HMO as proposed in this appeal did not involve any external works. There is a complex history as No 19 has been used as a licensed HMO for 5 occupants from August 2012 to 2017 and following a change in ownership for 6 occupants from January 2018. According to the appellant's evidence the property had been advertised by the estate agency as having an HMO licence without realising that both planning permission and private sector housing licencing were both required. However, at no point was planning permission sought for the change of use. The appellant secured an 11-month contract for 6 occupants for the academic year starting in September 2019. An Article 4 Direction covering change of use to HMOs came into force in April 2012 in order to help address the issues arising from such development.
7. In considering the principle of development it is necessary to refer to Policy H6 of the Warwick Local Plan 2011-2019 adopted in September 2017 (LP). This policy sets out the criteria within which proposals for houses in multiple occupation and student accommodation will be considered. I consider the proposal under each of the five criteria. For planning permission to be granted all of the criteria should be met.
8. Criteria a) requires that the proportion of dwelling units in multiple occupation (including the proposal) within a 100m radius of the site should not exceed 10% of the total dwelling units. The appellant has acknowledged that 17 HMOs exist within the 100m radius using the methodology in the Council's Policy H6 HMO Concentration Calculation Procedure Note (amended 21 August 2019). Given a total of 127 dwellings falling within the 100m radius, a further HMO would lead to 14.1% of the dwellings being HMOs representing a significant over-concentration against the upper limit set by the policy.
9. Criteria b) requires the site to lie within 400m walking distance of a bus stop. The appeal site satisfies this policy requirement.
10. Criteria c) requires that the site in question does not result in a non-HMO dwelling being sandwiched between two HMOs. The consultation response suggests this may not be the case since one property let to multiple unrelated tenants is managed by a social landlord thereby avoiding designation as an HMO. Notwithstanding this, I note the Council have confirmed this policy requirement regarding HMOs is satisfied. I have no reason to take a different view.
11. Criteria d) requires that the change of use would not lead to a run of 3 contiguous HMO properties. Notwithstanding the contradictory view noted in the consultation response the Council have confirmed this policy requirement is also satisfied. On the basis of the evidence I have no reason to demur from this assessment.
12. Criteria e) requires that provision is made for the storage of refuse containers whereby they are not visible from publicly accessible areas and the containers

can be moved using external routes only. While it is possible for external access to No 19 from the rear, this does not appear to be used and is not short and easy. In practice, refuse is stored to the front of the property. Therefore, this policy requirement is not met. Notwithstanding this, I note that the Council's Waste Management Department have not objected.

13. In relation to criteria a) Policy H6 allows for exceptions where the site is located on the campus of the University of Warwick or Warwickshire College, or the site lies on a main thoroughfare in a mixed-use area and where the proposal would not lead to an increase in activity such as pedestrian flows along nearby residential streets. While the former does not apply the appellant suggests that although the appeal site is located in a predominantly residential area, there are mixed-uses present and that Camberwell Terrace is but a short walk from Radford Road which is a main thoroughfare. Because of this the appellant considers the latter exception should be applied in this appeal. I do not share that view because Camberwell Terrace is a cul-de-sac, albeit with pedestrian links beyond, not a main thoroughfare. Additionally, all of the properties on Camberwell Terrace appear to be in residential use and while the Victoria Business Centre lies nearby, and partially lies within the 100m radius of the appeal site, it is clearly separate and distinct.
14. Exceptions to criteria e) may be made where alternative arrangements to store and move containers have been agreed. There is no such alternative in relation to the appeal site.
15. From the above analysis my conclusion on this main issue is that the proposed change of use to an HMO is not acceptable in principle. This is because the proposal is contrary to the provisions of Policy H6 and in particular criteria a) of the LP and would exacerbate an existing over-concentration of such properties in the area and thereby lead to a deterioration in the quality of life for local residents.

Living conditions

16. The change of use of dwellings into HMOs can give rise to impacts that adversely affect the living conditions of neighbours. Concentrations of such properties can exacerbate the problems that can include noise and disturbance, particularly late at night, and problems with littering and dealing with waste. Consultation responses suggest that the former is an issue in the area although I did not experience this as my site visit was during the daytime. I note that complaints have been recorded against the appeal property regarding excess noise by the Environmental Health Department in November 2018. However, in relation to waste and litter I observed the extensive amount of rubbish to the front of No 19 on my site visit.
17. While most of the terraced properties on Camberwell Terrace store their bins to the front of their homes, most are limited to 2 bins and were otherwise reasonably tidy. The situation to the front of No 19 was significantly worse, being very untidy and, not only included bins but other forms of rubbish too, including black bags and cardboard boxes. I can understand and sympathise with the concerns of neighbours.
18. I conclude on this main issue that the appeal proposal exacerbates the levels of disturbance prevalent in the area through an over-concentration of HMO properties. Accordingly, the proposals are contrary to Policy BE3 of the LP

which seeks to resist development that has an unacceptable adverse impact on the amenity of neighbouring residents. The HMO is also contrary to Policy H6 e) since waste arising from the occupants of No 19 is not being adequately dealt with.

Other Matter

19. The appeal site is situated close to the town centre within the extensive Royal Leamington Spa Conservation Area, which is a designated heritage asset. Radford Road provides the eastern link into the town from the nearby town of Southam. In this part of the Conservation Area close to the appeal site, Radford Road Church is the most significant building with Camberwell Terrace and Radford Road comprising a significant amount of 19th Century residential development.
20. The proposed change of use to an HMO does not result in any alterations to the external features of No 19 and therefore has no direct harm on the character and appearance of the Conservation Area.
21. Accordingly, I conclude the proposal would preserve the character and appearance of the Royal Leamington Spa Conservation Area and would not cause harm to its significance as a designated heritage asset. As such, the appeal proposal would be consistent with LP Policy HE1 which seeks to conserve and enhance designated heritage assets and their settings in the District.

Planning Balance

22. Having considered all of the relevant issues I conclude that the over-concentration of HMOs in the vicinity of the appeal means that the development is not acceptable in principle and that the harm caused by the development significantly outweighs the benefits.

Conclusion

23. For the reasons stated above the appeal is dismissed.

David Carter

INSPECTOR