



Appeal Decisions

Site visit made on 23 June 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 July 2020

Appeal A - Appeal Ref: APP/J4525/C/20/3246491

3 Evelyn Street, Sunderland SR2 7NE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by YMCA Wearside Ltd against an enforcement notice issued by Sunderland City Council.
 - The enforcement notice was issued on 14 January 2020.
 - The breach of planning control as alleged in the notice is: without planning permission, the change of use from a single dwelling (Planning Use Class C3) to a house in multiple occupation (HMO) (Planning Use Class C4).
 - The requirements of the notice are: cease the use of the property as a house in multiple occupation.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Appeal B - Appeal Ref: APP/J4525/W/20/3246495

3 Evelyn Street, Sunderland SR2 7NE

- 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 YMCA Wearside Ltd against the decision of Sunderland City Council.
 - The application Ref 19/01483/SUB, dated 30 August 2019, was refused by notice dated 10 January 2020.
 - The development is change of use from residential dwelling (Use Class C3) to house of multiple occupation (HMO) (Use Class C4).
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Decisions

1. It is directed that the enforcement notice be amended by the deletion of all the text in the allegation and the substitution of it by the following text:

‘without planning permission, the material change of use from a single dwelling (Planning Use Class C3) to a house in multiple occupation (HMO) (Planning Use Class C4)’.
2. Subject to this amendment, Appeals A and B are dismissed, planning permission is refused, and the enforcement notice is upheld.

Preliminary Matters

3. With regard to the wording of the enforcement notice, it alleges ‘... the change of use from a single dwelling...’. The allegation is imprecise in that it refers to a ‘change of use’, whereas to reflect the definition of the term ‘development’ in

s55(1) of the Act, it should state a 'material change of use...'. I am satisfied that this correction does not cause any injustice, or make the notice more onerous.

4. The planning application for the change of use was considered against Policy H18 of the Unitary Development Plan for Sunderland and Policy H6 of the Core Strategy and Development Plan 2015-2033 Publication Draft (September 2019). The Sunderland City Council Core Strategy and Development Plan 2015-2033 (CSDP) was adopted on 30 January 2020, with the result that Policy H18 is no longer in force. The development thus falls to be considered against CSDP Policy H6.

Ground (a) and the s78 appeal

Main Issue

5. The main issue is the effect of the development on the character of residential occupation in the area and the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

6. The appeal site is a mid-terrace two storey property located in a predominantly residential area. Dwellings in the area are subject to an article 4 direction removing the right to change their use from a Class C3 dwellinghouse to a Class C4 house in multiple occupation (HMO) without planning permission. The direction came into force in December 2013. It does not preclude such a change of use, but brings it within planning control.
7. CSDP Policy H6 states that HMO developments should not result in an over concentration of HMOs within the locality. Containing a total number of seven properties, Evelyn Street is very small. Despite its location in a widely built up area, it seemed to me on my site visit that the street itself is a relatively quiet, tranquil location. Although I have not been provided with information relating to the surrounding streets, the Council confirm that there are no other HMOs in Evelyn Street. It is therefore apparent that this form of accommodation does not strongly characterise the immediate area
8. Amongst a number of criteria, CSDP Policy H6 states that HMOs should be located where increased activity would not be detrimental to local amenity. Furthermore, they should not be detrimental to the amenities of neighbouring properties by causing undue noise and disturbance.
9. The HMO at No 3 provides four bedrooms. Under the current management by the appellant, YMCA Wearside, these are targeted at young people in need of support due to a range of personal circumstances. However, any occupants would essentially still live independent lives. I have been provided with a Management Plan which states that no visitors are allowed to the property except immediate family by prior arrangement. Although this introduces some element of control over comings and goings, this still potentially amounts to four separate sets of visits to the occupants of the house, although the frequency would presumably vary.
10. In addition, staff attend the property on a regular basis, including daily visits by an Outreach Worker, monthly inspections by a Housing Manager, and quarterly visits by the CEO of YMCA Wearside. Furthermore, a housekeeper

and a handyman attend the property on a weekly basis or more frequently if required. When taken in combination with the activities of the residents and their own personal visitors, this amounts to a significantly increased level of comings and goings at No 3, over and above those that would normally be generated by a private dwelling of the same size.

11. I have taken into consideration the representations of objection to the development from local residents and interested parties. These refer to a range of incidents of anti-social behaviour associated with the property. Northumbria Police also objected to the development, citing their previous experience of 'regular' police attendance at the appeal site in response to reported incidents of anti-social behaviour.
12. The appellant has provided email correspondence with the Council's Anti Social Behaviour Officer which confirms that the last anti social behaviour complaint was received in August 2018. I have not been provided with documentary evidence of the problems alluded to in the objections, but by the same token, the appellant does not dispute that such incidents occurred prior to August 2018.
13. Furthermore, the Management Plan indicates that staff are on call 24 hours a day and able to attend the property at any time. The Community Engagement section of the Management Plan points to the existence of a Site Complaints Log and appears to indicate that the review of complaints is a regular agenda item at meetings held by the organisation. Unfortunately, these factors strongly suggest to me that the appellant anticipates some level of disruption at the property, even with their management procedures in operation. There are likely to be, at the least, audible conversations and exchanges at the property, potentially at times when neighbouring and nearby occupiers would reasonably expect to enjoy the peace and quiet of their homes. Noise or disturbance would be likely to be exacerbated by the unusually secluded nature of Evelyn Street.
14. The appellant is experienced in the management of HMOs and there can be no doubt of the value of their work with vulnerable young people. Nevertheless, planning permissions are not given directly to specific organisations. They remain with the land, and so if I were to grant planning permission for this development, there would be nothing to stop the property being disposed of to another HMO provider, be they speculative or otherwise.
15. I have taken into account the appellant's suggestion that the Management Plan could be the subject of a condition. However, it is clear that this Management Plan is specific to the operation of the YMCA Wearside. That being the case, it could not reasonably be enforced with respect to any future HMO operator at the site, and so it would not be an appropriate form of condition.
16. I agree that a property within Use Class C4 remains a residence, and that the creation of HMOs provides a type of tenure for different groups that contributes to mixed and balanced communities. In this case, the development does not lead to an over concentration of HMOs in the immediate area as it is the only one in the street. There is no dispute that the property provides a good standard of living accommodation for the residents.
17. However, I am satisfied that the development results in an intensification of comings and goings which, in the context of the street, leads to a degree of

increased disturbance to neighbouring and nearby residents, thereby harming the quiet character of the area. The development thus unacceptably conflicts with CSDP Policy H6 and with the National Planning Policy Framework, which seeks to promote healthy and safe communities.

Conclusion

18. For the reasons above, I conclude that Appeal A and Appeal B should not succeed. The enforcement notice is upheld, subject to correction, and planning permission is refused.

Elaine Gray

PLANNING INSPECTOR