
Appeal Decision

Site visit made on 4 August 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/D1780/W/20/3251428

27 Obelisk Road, Southampton SO19 9BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms R Basi (Jamba Estates Ltd) against Southampton City Council.
 - The application Ref 20/00156/FUL is dated 4 February 2020.
 - The development proposed is change of use from C3 dwelling house to seven bed HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the appeal form and the Council's statement of case. This is a more precise description of the development involved than that used on the application form.
3. I note that the planning application was submitted retrospectively, and on my site inspection I observed that a HMO use has been implemented. I have dealt with the appeal accordingly.
4. Both parties have confirmed that, prior to the lodging of the appeal, discussions took place between the appellant and the Council in respect of reducing the number of occupants from 7 to 6, with the appellant submitting an amended plan, Ref KAD 01 A EX C, to the Council on 19 March 2020. With this in mind, I saw during my site visit that the ground floor room adjacent to the kitchen is currently used as a communal lounge, and that the premises are currently being used as a 6 bed Class C4 HMO, in accordance with the room layout shown on the amended plan.
5. I have also been provided with emails verifying that the Planning Officer advised that a Class C4 HMO could be supported, subject to the satisfactory resolution of landscaping and parking issues.
6. Notwithstanding this, the Council has advised that, under its scheme of delegation, the application had to be referred to the Council's Planning Committee for determination due to the number of local resident objections, and that the appeal was lodged before the Planning Committee had the opportunity to consider a revised scheme from that originally submitted.

7. In considering which proposal is before me for determination, I am mindful of the planning appeals procedural guidance¹ which advises that, if an appeal is made, the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. In this case, no formal Council decision has been made on the application, and from the submissions from both parties, there is no evidence before me that agreement on the outstanding issues had been reached by both parties, or that an agreed revised scheme had been formally accepted by the Council prior to the submission of the appeal.
8. With this in mind, and having regard to the cases put forward by both main parties and the number of third party representations in respect of the originally submitted scheme, notwithstanding the development that has taken place on site, I have determined the appeal on the basis of the original planning application scheme for a 7 bed HMO (Sui Generis) and planning application drawing KAD 01 A EX.
9. The Council has also advised that side facing dormer windows which have been installed to Bedroom 7 did not form part of the originally submitted plans. The Council consider that the dormer windows are not lawful as they are not obscure-glazed and fixed shut up to a height of 1.7m above the internal floor area. The determination of what could potentially be built under permitted development rights is not a matter for me to decide within the context of an appeal made under Section 78 of the Act, and I have, therefore, determined this appeal on the basis of the scheme as originally submitted.

Main Issues

10. The Council's statement of case confirms that it objects to the development, and indicates why it would have refused planning permission for the scheme as originally submitted, had it determined the application.
11. Policy CS16 of the *Local Development Framework Core Strategy Development Plan Document (2010)* (CS) supports the provision of a mix of housing types, and more sustainable and balanced communities. In this regard, the development would not breach the 10% limit set on conversions to houses in multiple occupation (HMOs) within a 40m radius, which is set out in the *Houses in Multiple Occupation Supplementary Planning Document (2016)* (the HMO SPD). It would thus contribute towards fulfilling the objective of CS Policy CS16. The Council nonetheless indicates that the conversion would adversely affect the character and appearance of the area, the living conditions of neighbours and future occupants of the HMO, and highway safety.
12. Accordingly, based on the Council's statement of case and the evidence before me, I consider the main issues are:
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance;
 - Whether the development would provide appropriate living conditions for future occupants having regard to communal living space provision; and

¹ Procedural Guide. Planning Appeals – England. The Planning Inspectorate August 2019

- The effect of the development on highway safety.

Reasons

Character and appearance

13. The appeal property is a semi-detached, two storey building located within a suburban residential road close to the Woolston shopping centre. Whilst there are some commercial properties within the road, the character of the street is predominantly residential, comprising two storey dwellings with some blocks of flats. Low front boundary walls are a common feature of the road, providing a sense of enclosure to property frontages, with front garden landscaping and frontage hedging also providing a green softening effect to the built development and positively contributing to a pleasant and attractive street scene.
14. The Council's statement of case includes photographic evidence of the appeal site frontage dated May 2018 which shows that the front boundary of the site was formerly defined by mature hedging, enclosing a grassed front garden. As such, the site made a positive contribution to the visual amenities of the public realm of Obelisk Road.
15. The landscaped front garden and frontage hedging has been removed and replaced by a gravelled and hard-surfaced parking area extending across the whole width of the site and with a completely open frontage. This has resulted in built development, with the likelihood of parked cars associated with seven individual households, dominating the site in views from the street, with no soft landscaping or front boundary enclosure to soften the visual impact on the street scene. This is out of keeping with the partially enclosed and soft landscaped property frontages which feature in the street, so that the appeal scheme appears as an incongruous and visually intrusive element in the road which would be detrimental to the visual amenities of the townscape.
16. With this in mind, I consider that the likelihood of occupants of the property, and their visitors, parking on the appeal site would be high, given the existing on-street parking restrictions along Obelisk Road. The appellant has confirmed that it is possible to park 6 cars on the site frontage.
17. I have noted the appellant's confirmed intention to reinstate a front boundary hedge in response to the Planning Officer's concerns regarding the frontage treatment of the site, and that the Planning Officer also requested a front boundary wall and a change of material for the forecourt parking area. However, I do not have details of any such alterations and I must determine this appeal on the merits of the appeal scheme before me.
18. For the above reasons, I therefore conclude that the proposed development would have a detrimental impact on the character and appearance of the area. As such, it would be contrary to Saved Policies SDP7 and H4 of the *Local Plan Review (2015)* (LP) and CS Policy CS13. These policies, amongst other things, seek to ensure that new development, including proposals for the conversion of dwellings into HMOs, integrates with its surroundings and does not materially harm the character and appearance of an area. For similar reasons, the proposal would also be contrary to chapter 12 of the *National Planning Policy Framework 2019* (the Framework) which seeks to ensure high quality design.

Neighbour living conditions

19. The appeal property is surrounded by residential properties to both sides, to the rear and on the opposite side of Obelisk Road. It is physically attached to no.25, the other house in the semi-detached pair. Although their respective front doors are not immediately adjacent to one another, they are relatively close and the premises share a party wall. The two properties have a sensitive relationship to one another as a result.
20. The occupiers of a HMO are likely to lead independent lives from one another. Families occupying a single dwelling, even a large one, are more likely to carry out day to day activities together as a household. Taking account of the size of the appeal property, the activity generated by seven persons living independent lives, with separate routines, and their attendant comings and goings, much of which potentially involves cars, given the amount of available on-site parking, along with those of their visitors, would lead to an level of activity that would be more marked and intensive than that which could reasonably be expected to be associated with a single house, even one occupied by a large family.
21. Even if the occupiers of the HMO may be out at work for long periods, the appeal scheme would still give rise to a level of general noise and disturbance at an intensity that would be disruptive, particularly to the occupiers of 25 Obelisk Road and consequently their living conditions. In this respect, I have noted the third party comments from the occupier of no.25 stating that the central dividing wall between the semi-detached properties contains no acoustic insulation, and that that the occupier of no.25 has experienced noise and disturbance as a result of the activities associated with the existing 6 separate households occupying the site, including from late night parties. Having regard to the layout of the appeal property, whereby the communal kitchen, rear patio leading off from the kitchen and the sizeable rear garden are all sited next to no.25, I have no reason to doubt the neighbour's comments. Furthermore, the appeal scheme has the potential to exacerbate the existing situation through the provision of an additional bedroom.
22. The appellant has not put forward any specific measures to address the potential for noise and disturbance to neighbouring occupiers, such as noise insulation measures or procedures for managing the future occupation of the HMO. I am not persuaded that car sharing by the existing tenants, who have the same employer, would reduce the comings and goings associated with the site to a degree that would not be harmful to neighbouring living conditions. This would not be a very practical arrangement for 7 individuals, and it would not be possible to ensure the future occupation of the site by co-workers in perpetuity.
23. For the above reasons, I therefore conclude that the proposed development would materially harm the living conditions of neighbouring occupants in respect of noise and disturbance. As such, the development would be contrary to LP Saved Policy H4, which states that planning permission for conversions to HMOs will only be granted where it would not be detrimental to the amenities of the residents of adjacent or nearby properties, and LP Saved Policy SDP1 which seeks to ensure that new developments do not unacceptably affect the health, safety and amenity of the city and its citizens. This is generally consistent with paragraph 127 of the Framework, which seeks to ensure that

developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

Living conditions of future occupants

24. I concur with the Council's view that the size of the bedrooms and access to outlook, light and privacy are acceptable, and that occupants would have access to sufficient external private living space in the rear garden which would provide adequate sitting out, washing drying and cycle storage space.
25. On my site visit, I found the communal kitchen/dining room to be light and airy with a well-laid out standard of utility, including seating/dining space. The property also benefits from 4 shower rooms. Taking into account the overall provision of internal and external communal living space, and standard of bedroom accommodation, whereby residents would be comfortable spending time within their rooms, I am not convinced by the evidence before me, that the overall amount of proposed internal and external communal living space is such that it would not be capable of accommodating use by 7 residents, nor that it would result in overcrowding to the detriment of the living conditions of the occupants.
26. In this respect I note that the Council has not drawn my attention to any adopted minimum size requirements in respect of HMO communal living space, bedroom or garden sizes.
27. For the above reasons, I therefore conclude that the proposed development would provide satisfactory living conditions for the future occupiers of the appeal scheme in respect of communal living space provision. As such, the development would accord with LP Saved Policy H4, which states that planning permission for conversions to HMOs will only be granted where it would provide adequate amenity space, and LP Saved Policy SDP1 which seeks to ensure that new developments do not unacceptably affect the health, safety and amenity of the city and its citizens. This is generally consistent with paragraph 127 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

Highway Safety

28. The Council is concerned about the availability of on-site turning, should the driveway be fully or tandem parked, and the migration of loose stones from the parking area onto the road where they could be picked up by other vehicles. However, noting that the on-site parking has been implemented, I have not been presented with any substantial evidence from the Council to demonstrate that these matters have resulted in danger to highway users.
29. I am mindful of paragraph 109 of the National Planning Policy Framework (the Framework) which advises that "*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".
30. On my site visit, I observed the absence of parked cars along both sides of the road within the vicinity of the appeal site as a result of the existing parking restrictions. Consequently, visibility along this straight stretch of road for any drivers having to reverse out of the site would not be impaired by parked cars.

I have also taken account of the low speed limit of the road so that passing drivers are likely to have time to react to any cars reversing out of the appeal site.

31. For the above reasons, and in the absence of cogent evidence from the Council to the contrary, I conclude that it has not been satisfactorily demonstrated that the appeal scheme would result in material harm to highway safety. Accordingly, having regard to the matter of highway safety, I cannot conclude that the appeal scheme would be contrary to LP Saved Policy SDP1 which seeks to ensure that new developments do not unacceptably affect the health, safety and amenity of the city and its citizens.

Other Matters

32. I have noted that the property benefits from a seven person HMO licence. However, the standards that apply to Licensing and Planning are the subject of separate regulations, and my decision must be based solely upon the planning merits of the scheme that is before me.
33. I acknowledge that the appellant has refurbished the building and that the property has been finished to a good standard of décor. I also note the accessible location of the site with respect to facilities and services and public transport routes, and that it is currently let out to professional working tenants. However, these matters do not alter my conclusions on the main issues.

Conclusion

34. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR