
Appeal Decision

Site visit made on 25 August 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2020

Appeal Ref: APP/D1780/W/20/3253935
22A Bellevue Road, Southampton SO15 2AY

- 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 and Mrs Jill and Kevin McAdam against the decision of Southampton City Council.
 - The application Ref 19/01690/FUL, dated 16 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is change of use from dwelling house (Class C3) to a four bed House in Multiple Occupation (HMO Class C4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of the proposal from the Council's decision notice, which matches that on the appeal form. It adequately and simply describes the proposed development instead of the much longer and detailed description given on the application form. I have omitted reference to '(retrospective)', since this is not descriptive of the actual development proposed.
3. I note that the application was submitted retrospectively, and I have dealt with the appeal accordingly.

Main Issue

4. The main issue is the effect of the development on the mix and balance of households in the local community and the resulting effect on the character of the surrounding area.

Reasons

5. The property is a terraced three storey building located within the city centre in a short 'no-through' road, where there is a mix of housing and commercial uses. It lies within a row of residential properties in a part of the road characterised by dwellings on both sides, including houses, flats and HMOs. The appeal scheme is for the use of the premises as a 4-bedroom HMO. The appellants have confirmed that this use has been in operation since 2013, and that prior to that, the property comprised a single dwelling house.
6. Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) provides for the use of a dwelling house as a HMO by not

- more than 6 residents; that is, up to 6 unrelated individuals who share basic amenities.
7. The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) grants planning permission, under Part 3 Class L, for a change of use from Use Class C3 (use as a dwelling house for up to 6 people living as a single household) to Use Class C4. However, the Council has, from 23 March 2012, and prior to the commencement of the HMO use of the appeal site, put in force a city-wide Direction under Article 4 of the Town and Country Planning Act 1990 (as amended) (TCPA), that removes this permitted development right.
 8. At the same time, the Council also adopted a Supplementary Planning Document titled '*Houses in Multiple Occupation*' (HMO SPD), which has since been updated in 2016. This was done to establish a tool which would assist the Council in addressing high concentrations of HMOs across the city. The HMO SPD sets out a clear and robust system for considering proposals for new HMOs, and was adopted following detailed public consultation. I therefore give it significant weight.
 9. The HMO SPD states that a large number of HMOs in one area can change the physical character of a residential area and the balance of a local community, and can lead to conflict within the existing community as a result of the intensification of use of a home by the greater number of comings and goings associated with the occupiers living independently of each other and increased pressure on parking provision.
 10. Therefore, notwithstanding that the HMO SPD recognises that HMOs provide much-needed housing accommodation, it seeks to prevent excessive concentrations of HMOs, and encourages a more even distribution across the city. To do this, it provides a definitive threshold, stating that planning permission will not be granted for new HMOs where the proportion of HMOs would exceed 10% of the residential properties within a 40 metre radius of the site, unless exceptional circumstances apply (where 80% of existing properties surrounding the site within the 40 metre radius are HMOs, and the applicant has demonstrated that there is no reasonable demand for the residential property as a continued Class C3 dwelling house).
 11. In this instance, the Council states that, within the defined radius, the appeal scheme would increase the percentage of HMOs to 42%, comprising 11 of the 26 identified residential properties. This is based on up-to-date information from the Council's Electoral Register, Planning Register, Licensing Register and Council Tax records. I find that these sources of information, which are listed in the HMO SPD, are reasonable, in the absence of a complete Council database of the location of all the city HMOs.
 12. The appellants consider that there are substantially more HMOs within Bellevue Road than are registered with the Council, so that the area is not a family residential area. The Planning Officer Delegated Report includes the survey information which underpins the Council's conclusion, including which properties within the radius the Council has identified as HMOs for the purpose of its percentage calculation. The appellants have not provided me with a detailed survey of their own to counteract the Council's findings, or provided details of the additional HMO properties to which they refer. Neither have they made a case for 'exceptional circumstances' as set out in the HMO SPD. Therefore, on the basis of the information before me, and no cogent evidence

from the appellants to the contrary, I have no reason to doubt the Council's conclusion, and I find that, whilst the HMO SPD allows for exceptional circumstances, the appeal scheme does not meet them.

13. The conversion of the appeal building to an HMO results in an intensification of activity at the site. This is because the occupation of the building as a single household is materially different from 4, probably unrelated, households typical of the HMO accommodation use of the site. The HMO is therefore very likely to result in a much greater level of comings and goings, which would potentially be evident to nearby residents, particularly given the terraced nature of the appeal property. An additional HMO within the immediate residential area adds to the built-up residential environment in which the appeal site is located, and has the effect of causing further imbalance to the existing community in the manner which the HMO SPD seeks to restrict. Therefore, having applied the threshold, I conclude that the appeal scheme has a harmful effect on the mix and balance of households in the local community which causes subsequent harm to the character of the surrounding area.
14. For the above reasons, on the basis of the evidence before me, and having regard to the methodology in the HMO SPD, I therefore conclude that the appeal scheme has a harmful effect on the mix and balance of households in the local community which causes subsequent harm to the character of the surrounding area. The appeal scheme is therefore contrary to Saved Policies SDP1 and H4 of the *City of Southampton Local Plan Review (2015)*, Policy CS16 of the *Local Development Framework Core Strategy (2015)*, and the HMO SPD, which taken together, seek to restrict the concentration of HMOs, so as not to be detrimental to the overall character and amenity of surrounding areas and to achieve more sustainable and balanced communities. This is generally consistent with advice in Chapter 5 of the *National Planning Policy Framework 2019* (the Framework), which encourages the provision of a mix of housing types to satisfy the needs of various community groups.

Other Matters

15. The appellants state that there would be no increase in occupancy of the property or requirement for additional car or cycle parking above that associated with the existing HMO use, and that the appellants purchased the property around the time that the Article 4 Direction came into force.
16. I have based my decision on the description of development in the banner heading, as noted above. I have no evidence before me that a formal application for a certificate of lawfulness with respect to the HMO use of the building has been determined by the Council prior to the planning application. Whilst I have determined the appeal on the basis that the change of use has already occurred, it is not for me, under a section 78 appeal, to determine whether or not the existing HMO use of the property is lawful. To that end, it is open to the appellants to apply for a determination under sections 191/192 of the Act, and my determination of this appeal under section 78 does not affect the issuing of a determination under section 191/192 regardless of the outcome of this appeal.
17. I have noted the appellants confirmation that the property benefits from a HMO licence, granted by the Council's Housing department. 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.

18. The appellants have drawn my attention to the lack of public comments in response to the planning application. However, this does not alter my conclusions on the main issue.

Conclusion

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

S Leonard

INSPECTOR