



Appeal Decision

Site Visit made on 10 November 2020 by S Watson BA(Hons) MSc MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Appeal Ref: APP/G2435/W/20/3257635
25 London Road, Kegworth, DE74 2EU

- 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 Russell Ward against the decision of North West Leicestershire District Council.
 - The application Ref 18/01190/FUL, dated 3 July 2018, was refused by notice dated 13 February 2020.
 - The development proposed is for the change of use to eight bedroom, eight person HMO (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to eight bedroom, eight person HMO (sui generis) at 25 London Road, Kegworth DE74 2EU in accordance with the terms of the application, Ref 18/01190/FUL, dated 3 July 2018, 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 plans: Site Location Plan, Parking Plan, Refuse & Recycling Storage Area Plan, Proposed Floorplan.
 - 3) The development hereby permitted shall not be occupied until the approved bin storage area shown on drawing *Refuse & Recycling Storage Area Plan* has first been provided. Thereafter, the bin storage area shall permanently be kept available for this purpose only.
 - 4) The development shall not be occupied until the two approved off-street parking spaces have been created and are available for use. Thereafter, the off-street parking spaces shall permanently be available and retained for this use.

Application for Costs

2. An application for costs was made by Mr Russell Ward against North West Leicestershire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description used in the header above has been taken from the Council's decision notice as it more accurately reflects the proposal than that included on the application form.

Appeal Procedure

4. The site visit was carried out by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

5. The main issue in this case is the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise.

Reasons

6. The appeal site is set behind two properties, Numbers 21 and 23 London Road and contains a large, two-storey property, with rooms in the roof. The property takes up the majority of the small plot, while to its side is a small garden area behind a driveway. Nos 21 and 23, have a small area of external amenity space to the rear which is located in close proximity to the party boundary with the host property. A tall Conifer hedge forms the boundary treatment between the appeal site and these properties. It is accessed via a shared driveway from London Road which runs between Nos 23 and 29 and leads to land behind the appeal site. Each of Nos 21, 23 and 29 have windows which face the appeal site, while the side windows at No 29 also face the shared driveway.
7. From the evidence before me it appears that the host dwelling is occupied by 6 residents as a small House in Multiple Occupation (HMO). This use is likely to generate a number of daily comings and goings by vehicle, foot and cycle along the driveway in close proximity to the rear outdoor space and windows of Nos 21 and 23 and the side windows of No 29, as well as use of the small garden area associated with the property.
8. I acknowledge that an increase in the number of occupiers of the property would result in an increase of comings and goings to it, but the level of activity involved would not be substantially different to the trip patterns of individuals in the existing property. The Council has indicated in its Officer report that the existing use of the property has not resulted in complaints being received, and any increase associated with 2 additional occupiers would, on the basis of the evidence before me, be unlikely to result in noise and disturbance to a degree that would be harmful to nearby occupiers' living conditions.
9. The proposed bedrooms would be set away from the neighbouring properties, and therefore their use would be unlikely to have any adverse effect upon nearby occupiers.
10. The outdoor space to the property is located in close proximity to the rear boundary with Nos 21 and 23. Within a tight knit area of development such as this, there is a high probability that activities in one garden could be observed and overheard by others in nearby gardens. I have no evidence before me to demonstrate that activities within the garden has caused nuisance to nearby occupiers. Even in the event that each of the occupiers were in the garden at

the same time, I have little evidence before me as to how this would impact the living conditions of neighbouring residents with regard to noise and disturbance.

11. Whilst there may be more noise at times when parties were being held, this would also be the situation if parties were held in other properties nearby. I have no substantive evidence before me that a proposal of this nature would result in more parties than a private dwelling or that the frequency of such events would result in a degree of nuisance which would disturb nearby occupiers to the degree that would make their properties less pleasant to use.
12. I note the concern regarding storage of refuse, however I have no evidence to substantiate that a use of this nature causes undue litter or odours. The location of the bin storage area is sufficiently distant from the rear of nearby properties, and this area could be controlled by a suitably worded planning condition.
13. In light of the above I conclude that the proposal would not be harmful to the living conditions of neighbouring occupiers. The proposal complies with Policy D2 of the North West Leicestershire Local Plan which seeks development to, amongst other things, minimise its impact on the amenity and quiet enjoyment of existing and future residents close to the development. Moreover, the proposal accords with Paragraph 127 f) of the National Planning Policy Framework (Framework) which requires development to create places which, amongst other matters, promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

14. While I note the concerns raised regarding the number of students within the village, I have not been provided with any substantive evidence to show what harm the current number of students are causing. Nevertheless, I find that an increase of two occupiers would be unlikely to have a material impact on the village as a whole, especially as any future occupiers may not necessarily be students. Likewise, it is not possible to ascertain the attitudes nor lifestyle of any future occupiers and any anti-social behaviour related to them would need to be dealt with outside of the planning system. I therefore give these matters limited weight.
15. I also find that the proposal would only be intensifying an existing HMO, rather than creating a new HMO, and as such the proposal would be unlikely to have a discernible effect upon the wider character of the village. Likewise, although the host property may not have originally been designed for use as an HMO, this does not prevent it from being used as such.
16. I note the close proximity of the site to local shops which would cater for the day to day needs of the intended future occupiers. No evidence has been provided to substantiate the concern raised that there are insufficient services nearby to support the occupiers of the property. Accordingly, I attach limited weight to this matter.
17. The increase in the number of occupiers of the property, would be unlikely to have a significant impact on the existing drainage situation and I also give this matter limited weight.

18. Concern has been expressed about the proposal providing insufficient parking, however I note that the highway authority has raised no objections to the proposal on highway safety or parking grounds. In the absence of substantive evidence to demonstrate otherwise, I have no reason to reach a contrary view in this regard.
19. The appeal site is within the Kegworth Conservation Area. Having regard to my statutory duty, I am satisfied that the proposal would have a neutral effect to the conservation area and as such the proposal would preserve the character and appearance of the conservation area. It is noteworthy that the Council did not raise the impact on the conservation area as a concern when it refused the planning application.

Conditions

20. The Council has suggested conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the Framework and the Planning Practice Guidance. I have amended some of the suggested wording to reflect this advice.
21. To ensure clarity, a condition is necessary requiring that the development is carried out in accordance with the approved plans. Conditions are also necessary to control the parking area and location of the refuse and recycling areas, in the interests of highway safety and the living conditions of existing and future occupiers of the property and those nearby.
22. However, as the use is *sui generis* and therefore does not have the ability to change use without seeking planning permission, I find it would not be necessary to restrict, by way of a condition, the use as approved.

Recommendation

23. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be allowed.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed with the suggested conditions.

RC Kirby

INSPECTOR