



Appeal Decision

Site visit made on 15 December 2020

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2021

Appeal Ref: APP/U4610/W/20/3259769

1 Squires Way, Coventry CV4 7EJ

- 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 Keung Kwok Yui Keung against the decision of Coventry City Council.
 - The application Ref FUL/2020/0092, dated 14 January 2020, was refused by notice dated 6 May 2020.
 - The development proposed is a change of use of residential property (Use Class C3) to 7 bedroom HMO (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a dwellinghouse into 2 cluster flats comprising of 7 bedrooms to use as a house in multiple occupation (HIMO, Sui Generis) at 1 Squires Way, Coventry CV4 7EJ, in accordance with application Ref FUL/2020/0092, dated 14 January 2020, subject to the conditions specified in a schedule attached to this decision.

Procedural Matters

2. The description in the banner heading above is taken from the application form. However, during the course of the planning application this was altered to that referred to in the decision above. This provides a more accurate description of the development and was used to notify neighbours and consultees; I am therefore satisfied that my use of it would not prejudice any party.
3. At the time of my site inspection a development similar to that shown on the appeal plans was substantially complete and the use had commenced. For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application and the revised description of the use.

Main Issues

4. The main issue is the effect of the development on the living conditions of nearby residents with particular regard to noise, disturbance and overlooking.

Reasons

Noise and disturbance

5. The site accommodates a large detached dwelling close to the entrance of a residential cul-de-sac. The building provides accommodation on three floors, including rooms in the roof space. It is set behind an open-fronted garden with

forecourt parking and a paved private amenity space is enclosed to the rear. Due to its position close to a road junction, the side boundary with 87 De Montfort Way is skewed and cuts behind the rear elevation of part of the dwelling.

6. The proposal for use as a house in multiple occupation (HMO) for a total of 7 people over three floors would be a marginally greater level of occupation than that permitted under Class L, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015. This provision allows the occupation of a dwelling by between 3 and 6 unrelated individuals (Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended)) without recourse to seek planning permission, as recognised by the Council. Furthermore, the building has been extended such that it would be capable of serving as a family dwelling with a considerable number of bedrooms whereupon it is plausible that the proposed level of occupation could be somewhat less than if occupied by a large single family unit.
7. Although occupation by unrelated individuals could lead to a higher frequency of coming and going due to a greater likelihood of independent activity when compared to family group activity, this would only be a marginal increase against occupation by 6 unrelated individuals. Given the detached nature of the property and that its main entrance is set away from neighbouring properties, even when accounting for greater levels of visitors, I find there is little basis to conclude that the proposed change of use would cause harm to the living conditions of neighbouring residents by way of increased comings and goings.
8. Furthermore, the detached nature of the property and division of facilities between the ground floor and upper floors is unlikely to result in significant level of sound outbreak in comparison to normal use of the building as a dwelling. Although congregation within or outside of the building might occur, including late at night and with additional numbers arising from the presence of visitors, there is little objective evidence before me to indicate that problems would arise, or have done so, given the recent occupation as a large HMO for 7 people has already taken place for some time.
9. The site is located in close proximity to local higher educational establishments. Although occupation by 7 students might give rise to a different impact to a use by a large family, I consider that any disturbance in comparison to levels arising from its use by 6 unrelated occupiers would not be material.
10. For the above reasons, I find that the proposal would align with Policies DE1 and H11 of the Coventry Local Plan 2016 (CLP), which, of the policies referred to me, are the most relevant and seek to provide integrated forms of housing and protect the living conditions of nearby residents.

Overlooking

11. The completed extensions include a number of openings at first floor and in the projecting rear roof slopes that address the diagonal rear boundary shared with 87 De Montfort Way and the rear garden areas of other properties on Squires Way. On internal inspection, I observed that views over the private amenity spaces of neighbouring properties could be gained from several of those openings. Furthermore, views into the rear windows and the sensitive area

immediately to the rear of the dwelling at No87 were possible from a rooflight serving bedroom 3 of flat 2.

12. The appellant's plans indicate that some of the existing clear glazed windows would be fitted with opaque glazing to overcome the Council's concerns in relation to overlooking. The first-floor windows serving the study area of Flat 2 address the angled common boundary of No87 at close quarters such that views over a large part of the rear garden can occur. However, the appellant highlights that a previous scheme (extant planning permission HH/2018/2345) included a window in a similar position with no attendant requirement for opaque glazing. This is not contested by the Council.
13. Compared to the previous scheme the level of overlooking afforded from the first-floor windows would be marginally increased due to the wider positions of the installed windows. To compensate for this the plans show them as being fitted with opaque glazing. This would prevent overlooking with the windows in the closed position. Although some loss of privacy would arise from the nearest first floor double window in the open position, this would be no greater than the extant scheme.
14. The rooflights serving bedroom 2 of Flat 2 are positioned such that outward views are limited on two counts. The sill level of the higher rooflight substantially restricts downward views towards the garden area of No87. The lower rooflight is within a vaulted roof beyond the mezzanine level such that only sky views are available through it.
15. However, some of the rooflights serving bedroom 3 of flat 2 afford views across the rear of No87 and neighbouring properties on Squires Way. The rearward-most rooflight addressing No87 is positioned over the stairwell such that views can only be gained from a set-back position on the top landing. This restricts the view to the roofscape of No87 only. The rooflight sited closer to the main body of the building is set low enough to enable views of most windows in the rear of No87 and the garden area immediately to the rear. This results in an unacceptable level of overlooking and loss of privacy to the significant detriment of the living conditions of occupiers of that property.
16. Within the same bedroom, the rooflights facing the rear areas of 3 Squires Way and beyond, also result in a degree of overlooking of private amenity spaces that would cause harm to the living conditions of those neighbouring occupiers. However, in accordance with the approach advocated in Paragraph 54 of the National Planning Policy Framework (the Framework), I consider that the harm arising could be overcome through the use of obscure glazing and fixture of the windows in a closed position.
17. Subject to a requirement to install opaque glazing and, in some instances, fix the window openings closed, I conclude that the development could be made acceptable in planning terms and to comply with the requirements of Policies DE1 and H11 of the CLP which, of the policies referred to me, are the most relevant and seek to provide integrated forms of housing and protect the living conditions of nearby residents.

Conditions

18. I have considered the suggested conditions from the Council and had regard to Paragraph 55 of the Framework and the National Planning Practice Guidance in

terms of the use of planning conditions. I find the majority to be reasonable and necessary in the circumstances of this case. However, some have been edited for precision and clarity and I have imposed an alternative requirement to reinstalling some rooflights to a higher level.

19. I have imposed a condition specifying the relevant drawings as this provides certainty. To protect living conditions of nearby residents a condition restricting the number of occupiers of the building and requirement to fit opaque glazing and prevent opening of some windows and rooflights are reasonable and necessary.
20. To provide adequate parking and encourage sustainable forms of transport, conditions in relation to vehicle and cycle parking provision are appropriate. To protect air quality a condition in relation to boiler emissions is necessary.
21. To maintain a high standard of development and ensure free access to parking spaces, a condition requiring suitable storage of bins is appropriate.

Conclusion

22. For the above reasons, the appeal should be allowed.

R Hitchcock

INSPECTOR

Schedule of conditions to planning permission FUL/2020/0092:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 8051/11 rev B having regard to the requirements of Condition 3.
- 2) The two cluster flats hereby permitted shall be occupied by no more than 7 residents in total at any time.
- 3) Unless within 2 months of the date of this decision the first floor windows serving study area 2 of flat 2 are obscure glazed and the rooflights of bedroom 3 of flat 2 (except for the rooflight over the stair void) are obscure glazed and fixed closed, the use of the site as 2 cluster flats comprising of 7 bedrooms to use as a house in multiple occupation shall cease until such time as those works are completed. The requirement specified in this condition shall thereafter be retained for the duration of the development. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 4) Notwithstanding the details shown on the approved plans; within 6 months of the date of this decision, details of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be provided in full accordance with the approved details prior to first occupation and thereafter those facilities shall remain available for use at all times and shall not be removed or altered in any way.
- 5) The car parking areas to serve the development shall be provided in accordance with approved plans and thereafter the parking provision shall remain available for such use at all times.
- 6) The bin storage facilities shall be provided as per approved drawings and refuse bins must be stored within the bin storage area as shown in the approved drawings and not positioned on the public highway or on the front drive/parking area, unless on bin collection days.
- 7) Any gas boilers installed on site shall have a dry NOx emission rate of no more than 40mg/kWh. A minimum of 1 x electric vehicle charging point shall be provided within 3 months of the date of the decision and shall be maintained and available for use at all times thereafter.

END.