

Appeal Decision

Site Visit made on 23 March 2021

by Mr Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2021

Appeal Ref: APP/U3935/W/20/3263946

79 Lansdown Road, Swindon, SN1 3ND

- 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 Phil Brett against the decision of Swindon Borough Council.
 - The application Ref S/20/0173/PEKO, dated 31 January 2020, was refused by notice dated 29 May 2020.
 - The development proposed is the change of use from existing dwelling to 8 person HMO (Sui Generis) plus two storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from existing dwelling to 8 person HMO (Sui Generis) plus two storey rear extension at 79 Lansdown Road, Swindon, SN1 3ND in accordance with the terms of the application, Ref S/20/0173, dated 31 January 2020, 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: Drawing numbers 569/001, 569/005, 569/010, 569/020, 569/050, 569/100 and 569/200
 - 3) The external materials to be used in the construction of the development hereby permitted shall match those used in the existing building.
 - 4) The HMO use hereby permitted shall be occupied by a maximum of eight persons at any one time.
 - 5) The development hereby permitted shall not be occupied until secure and sheltered cycle storage facilities for a minimum of 8no. bicycles have been made available in accordance with details that have been submitted to and approved in writing by the local planning authority. The approved facilities shall thereafter be retained.

Applications for costs

2. An application for costs was made by Mr Phil Brett against Swindon Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the planning application was determined the Council has adopted updated parking standards. The appellant has had the opportunity to comment on these and thus there would be no prejudice in me considering the appeal with reference to these new standards.

Main Issues

4. The main issues are (i) whether future occupiers would experience satisfactory living conditions and (ii) the effect of the development on the living conditions of the occupiers of nearby properties.

Reasons

Future occupiers

5. The appeal proposes the change of use of the existing building from a dwelling to an 8 person House in Multiple Occupation (HMO). While I note comments that the existing use of the building is unclear, the Council highlight in the Officer's Report that there is no planning history for the site and on this basis there is no planning permission for the building to be used currently as a HMO. Nonetheless, the use of a dwellinghouse as an HMO by not more than six residents is permitted development and the existing plans appear to show the layout of the building as an HMO and the appellant's appeal statement confirms use as a 6 person HMO.
6. The submitted plans show that the property currently comprises of six bedrooms over the three floors of accommodation and this number is not proposed to be increased. The accommodation is to be reconfigured, facilitated by the addition of a rear extension. The extension would accommodate en-suite bathroom facilities for bedrooms 2 and 5, allowing them to become double bedrooms, thus accommodating two additional residents than possible within the existing building. These two bedrooms would also be provided with dedicated cooking facilities within. The submitted details therefore show four 1-person rooms and two 2-person rooms.
7. I am conscious that the Environmental Health Officer commented on the proposed details and stated that the layout would achieve local housing standards for an HMO of this type; there is no substantive evidence before me that convinces me otherwise. Additionally, the Council accept that the floorspace of the building meets the minimum sizes set out in local policy. On this basis, I find that the accommodation would not be cramped, but would deliver a level of accommodation that would adequately provide for the day-to-day needs of occupiers.

Nearby occupiers

8. The site is located within a reasonably densely populated area, comprising terraces of properties along streets. Within this context, the likely effect of the increase in the number of residents at the property by only two individuals would be insignificant. As such, any increase in activity at the property would not be unreasonably noticeable to nearby occupiers. I acknowledge that there is concern over the potential for individuals to stand outside of the property and talk or smoke, however this is also possible under the current arrangements. I have no evidence before me that convinces me that the addition of two more residents would result in demonstrable harm in this respect. In such an area with a close-knit layout of a large number of residential properties, the proposed change would not, in my view, result in any diminution of the existing character of the area through an unacceptable increase in activity, noise or disturbance.
9. The additional occupants may result in an increased need for refuse storage at the property. In this regard, I noted two existing wheelie bins to the frontage of the building and there was sufficient space to accommodate additional facilities if needed. The location of refuse storage facilities to the frontage of properties was not unusual in the area and thus this arrangement has no adverse effect.

10. The scheme includes the erection of a two-storey extension to the rear, in order to provide en-suite bathroom facilities for two of the bedrooms. The extension would be located near to the windows and doors on the rear elevation of 80 Lansdown Road. However, the design of the extension includes a stepped rear elevation, stepping outwards away from this neighbouring property. In light of this, the extension would not unacceptably impinge on views out of the windows and doors of the neighbouring property.
11. Furthermore, given its somewhat limited extension from the existing rear elevation and that it would not exceed the existing height of the rear outrigger, there would be no overbearing effect. Moreover, given the orientation of the building and the proposed extension, any overshadowing that may occur would be minimal and would not be sufficient so as to result in unacceptable living conditions for neighbouring occupiers.
12. There would be two windows to the end elevation of the proposed extension. These are to serve the en-suite bathrooms and proposed to be obscurely glazed. Even if they were to be clear glazed, given the distance from the properties opposite, as well as the degree of mutual overlooking that exists between properties, these two windows would not result in any unacceptable overlooking.

Finding on main issues

13. Overall, I find that the proposal would provide satisfactory living conditions for future occupiers, as well as having no unacceptable effect on the living conditions of neighbouring occupiers. Thus, the proposal accords with DE1 of the Swindon Borough Local Plan (adopted 2015), insofar as it seeks to protect amenity. There would also be no conflict with the amenity protection aims of the National Planning Policy Framework.

Other Matters

14. Since the refusal of planning permission by the Council, new parking standards have been adopted, Parking Standards for New Development (2021), which indicate that two parking spaces should be provided for HMO's with 8 occupants. At the time the planning application was determined, a nil parking requirement applied. I observed at the time of my visit that there was space to the rear of the building and that there was a vehicle parked there. Thus, there is the ability to park a single vehicle at the site and there exists a shortfall of one parking space against the standard advised in the now adopted Supplementary Planning Document (the SPD). I am conscious that the consultation response from the Highways Department highlights that the site is located at a highly sustainable location in transport terms. There is easy access to local footways and cycle routes, as well as the property being within a short distance of frequent public bus services. Despite comments to the contrary, at the time of my visit (approx. 11:00) there were parking spaces available in the local area, within both permit-controlled bays and as unrestricted on-street parking. Given the good access to transport options other than the private car, together with a shortfall of only a single space against the requirement, I find that the proposal would not lead to any significant or unacceptable increase in on-street parking stress. As such, I find that it would be acceptable to depart from the guidance provided by the SPD in this instance.
15. Concern has been raised in respect of the potential concentration of HMO's within the local area and the consequential adverse effects on the character of the area. The Council's Committee report sets out that the scheme would not result in the number of HMO's within a 100-metre radius of the site exceeding 20% of the

number of properties and no objection by the Council is raised on this basis. I have no reason to find otherwise and I am satisfied that the proposal would not lead to an over-concentration of HMO properties within the locality.

16. I note that none of the other properties within the terrace have been extended to the rear in the same way as that which is proposed. However, given the modest protrusion from the rear and that the height of the extension would not exceed that of the outrigger, I find that the extension would have a subservient presence and an acceptable effect on the character and appearance of the area.
17. There is no substantive evidence before me to show that the proposal would have deleterious effects on the value of nearby properties, the mental health of nearby residents, fire-risk, crime or anti-social behaviour, or as a result of fly-tipping and litter. There is also nothing to suggest that the infrastructure within the area does not have the capacity to accommodate the development.
18. I am conscious that it has been raised that permitting the development would set a precedent for other similar schemes. However, as I have found the proposal to be acceptable, it would not set any precedent for undesirable development in the future. The Environmental Health Officer indicates that a mandatory HMO licence will be required for the property, this is however a matter for the appellant.

Conditions

19. In addition to ensuring adherence to the approved plans, a condition securing the use of matching materials is necessary in the interests of the character and appearance of the area. In the interests of ensuring adequate living conditions, I have imposed a condition limiting the number of occupants. However, I do not consider it necessary to control which rooms contain single or double beds. In order to facilitate sustainable transport options, I have also included a condition requiring the implementation of cycle storage facilities.
20. A condition has been suggested preventing the insertion of windows to the side elevations of the proposed extension. However, given the use of the rooms as bathroom facilities, I do not find such a condition necessary. It is also recommended that a condition be imposed restricting entitlement to parking permits. I am not convinced that doing so would meet the required tests for a planning condition. In any event, in light of my findings above I do not consider it necessary to impose such a restriction.

Conclusion

21. For the reasons given above I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR