



Appeal Decision

Site Visit made on 3 November 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/L1765/W/21/3274965

102 Firmstone Road, Winchester SO23 0PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Simon Birmingham against the decision of Winchester City Council.
 - The application Ref 20/02790/FUL, dated 2 December 2020, was approved on 1 April 2021 and planning permission was granted subject to conditions.
 - The development permitted is described as (Amended Plans) C3 use to Dual use C3 Residential / C4 (4 Bed) HMO Use.
 - The condition in dispute is No. 3 which states that: The property will be occupied by no more than 4 tenants and each bedroom by no more than one tenant if in use as a C4(HMO).
 - The reason given for the condition is: In the interests of the amenities of the area.
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Decision

1. The appeal is allowed and the planning permission Ref 20/02790/FUL for (Amended Plans) C3 use to Dual use C3 Residential / C4 (4 Bed) HMO Use at 102 Firmstone Road, Winchester SO23 0PB granted on 1 April 2021 by Winchester City Council, is varied by deleting condition 3.

Main Issue

2. The main issue is the effect on the living conditions of neighbouring residents.

Reasons

3. An Article 4 Direction has removed permitted development rights for the change of use from C3 to C4 uses in the area. Policy WIN9 of the Winchester District Local Plan Part 2 2017 sets out that the Article 4 Direction is intended to retain a balanced housing stock. Various technical criteria seek to avoid an over concentration of Houses in Multiple Occupation (HMOs) or sandwiching dwellings between HMOs. These criteria are not breached.
4. There is nothing in Policy WIN9 about effects on the living conditions of neighbouring residents that may arise from any individual change of use, but due to the Article 4 direction, planning permission is required. There is no reason before me that other matters relating to the effects of development cannot be considered.
5. In granting permission, it has been accepted that 4 occupants of the HMO would not result in harmful living conditions to the occupiers of neighbouring dwellings. For 6 occupants, the plans indicate that there would be more bedrooms alongside the adjoining walls of neighbouring dwellings. However, both schemes would include a bedroom and communal space along the

neighbours' wall. There is no substantive evidence that more bedrooms would cause significant additional noise and disturbance, why the line should be drawn at 4, or why adjoining bedrooms might be acceptable for the neighbouring first floor flat but not the ground floor one. The removal of the condition would not result in an unrestricted HMO, as the total number of occupants would still be controlled by the definition of the C4 use.

6. I note the concerns of local residents that there could be greater demand for on street parking which I observed was clearly stretched already. However, the Council's officer report indicates that dwellings and HMOs have the same parking requirement and, therefore, there is no clear reason to limit the number of occupants on this ground.
7. For the reasons given, it has not been demonstrated that the condition is necessary to protect the living conditions of neighbouring residents. Therefore, the appeal is allowed.

M Bale

INSPECTOR