
Appeal Decision

Site visit made on 5 July 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Appeal Ref: APP/G4620/W/22/3294026

10-12 Park Hill, Wednesbury WS10 0PL

- 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 Balachandran Thiagarajah against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/66097, dated 7 September 2021, was refused by notice dated 10 December 2021.
 - The development proposed is described as "conversion of (existing) residential accommodation to provide a self-contained ground floor flat alongside a 7-bed HMO."
-

Decision

1. The appeal is allowed and planning permission is granted for proposed change of use of residential accommodation at ground floor to self-contained flat, and a 7-bed HMO on first and second floors, with associated car parking (amendment to refused application DC/19/63440) at 10-12 Park Hill, Wednesbury WS10 0PL in accordance with the terms of the application, Ref DC/21/66097, dated 7 September 2021, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Balachandran Thiagarajah against Sandwell Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of the proposed development in the banner heading above is taken from the planning application form. It differs from that on the appeal form and the decision notice which is 'proposed change of use of residential accommodation at ground floor to self-contained flat, and a 7-bed HMO on first and second floors, with associated car parking (amendment to refused application DC/19/63440).' My decision is based on this description, since it more accurately described the proposal. The appellant has confirmed in writing that they are agreeable to the wording of this amended description.
4. Policies from the Council's adopted Local Plan did not form part of the Council's reasons for refusal on the Decision Notice. I have therefore applied the relevant national policies from the National Planning Policy Framework (Framework) (2021) to this appeal decision.

Main Issues

5. The main issues are the effect of the proposal on:

- The living conditions of neighbouring occupants, with regard to noise and disturbance.
- Highway safety.

Reasons

Living Conditions

6. The appeal site is a traditional 2.5 storey property on Park Hill (No 10-12). The appeal property is of mixed-use, comprising a retail convenience store at ground floor level and a 9-bedroom dwelling situated across the ground, first and second floors. It is located within an established residential area consisting of predominantly semi-detached dwellings.
7. The proposal seeks permission for the conversion of the existing residential accommodation to create a self-contained ground floor unit (Use Class C3), alongside a single HMO (Sui Generis), comprising a total of 7 single person bedrooms.
8. The Council is concerned that the proposal would result in a material increase in noise and disturbance for neighbouring occupants. It is claimed that this would be caused by an intensification of activity at the appeal property which would lead to increased comings and goings.
9. In its existing form, the appeal property currently consists of 9 bedrooms. It could therefore be used as a dwelling to accommodate a reasonably large family that could consist of several adults and teenagers. Such a family could generate considerable activity in the form of comings and goings. Although the proposal would create 2 individual residential units, the total number of bedroom spaces on the site would be reduced from 9 bedrooms to 8 bedrooms. In addition, the proposed bedrooms would be for single occupancy use only, whereas the bedrooms in the existing property could have double occupancy. Therefore, the number of persons living at the appeal property is likely to be less than what could potentially live at the appeal property in its existing form.
10. I accept that the occupants would live independently of one another, which is different to a single dwelling house. However, the level of activity generated by the occupant's comings and goings for work, leisure, and shopping purposes etc, and the number of visitors and deliveries to the property would not be significantly different to that generated by one large family household or an HMO of up to 6 residents. Furthermore, I note the Council's Pollution Control (Noise) team has not raised any objections to the proposal in terms of noise.
11. I acknowledge that the property has a retail convenience store on ground floor level, however, the proposal before me makes no change to the retail premises. Therefore, the comings and goings to the retail premises would be similar to that experienced currently.
12. Consequently, the proposal would not result in a significant intensification of the appeal site or lead to noise and disturbance over and above the existing use of the appeal property as a 9-bedroom dwelling. In addition, the Council has not provided substantive evidence as to how the proposal would have an

unacceptable impact on the living conditions of neighbouring residents with regard to noise and disturbance.

13. I therefore find that there is insufficient evidence to substantiate the Council's concerns that the proposal would increase noise and disturbance in the local area. In addition, there are separate protections to address noise and the local authority and Police have powers to deal with such nuisance behaviours should they arise.
14. I acknowledge the Council's concerns regarding the number of occupants at the property potentially increasing to 14 residents. However, the proposal before me is for bedroom space for single person occupancy only. Therefore, I will impose a condition to limit the total number of residents to 8 in order to control the effect of the proposal on the locality.
15. For the above reasons, the proposal accords with paragraph 130 of the Framework, where it seeks to promote health and well-being and a high standard of amenity for existing and future users.

Highway Safety

16. The appeal property is close to bus routes, and I observed that the site is within easy walking and cycling distances of local services and facilities. Indeed, Wednesbury Town Centre is located 1.36km from the site, and Gallagher Retail Park is located around 730m away. There are two bus stops with regular bus services located on Park Hill and Woden Road East, both approximately 70m from the appeal site. Therefore, the appeal property is reasonably accessible by public transport, walking and cycling.
17. The frontage of the appeal property would provide parking for up to 4 cars. Taking into account the number of occupants, the type of accommodation, and the accessibility of services and facilities by non-car modes, the proposal would be unlikely to result in on-street parking. If parking for more than 4 cars did arise, some on-street parking is available for residents in the nearby area, as evidenced by the appellant's 'Transport and Highways Technical Note – Proposed House of Multiple Occupation (HMO), 10-12 Park Hill, Wednesbury (September 2021)'. The parking survey carried out identified that there are 141 unrestricted parking spaces within a 200m radius of the site, of which, on average 104 spaces are available. I also note that the Highways Authority has raised no objection to the proposal, having undertaken their own independent parking surveys. Coupled with the appellant's technical note, these surveys demonstrate that there would be sufficient on-street parking available within the locality, even at peak times, and there would not be a severe impact upon the highway network.
18. As explained above, the appeal property in its current form could be occupied by a large family consisting of several adults and teenagers. Such a family could have a high level of car ownership with its associated parking demand. As such, the proposal before me, for single bed space occupancy, would not be significantly different to that of a large family dwelling with regard to off road parking demand.
19. I note the Council's concern regarding double occupancy of bedroom spaces which could lead to insufficient off-street parking. However, as explained

above, I have imposed a condition to control the number of persons residing at the property.

20. My attention has been drawn to a photograph showing parking congestion in the immediate area around the appeal site. However, this is a snapshot in time and no further evidence has been submitted by the Council to substantiate the claim that parking congestion exists within the immediate area of the appeal site. The technical note (September 2021) has shown that a sufficient number of parking spaces would be available within a 200m radius of the appeal site.
21. Therefore, the appeal property has adequate off road parking provision, and the proposal would not exacerbate on road parking to the extent that highway safety would be materially harmed. The proposal therefore complies with paragraph 111 of the Framework, which states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

22. The existing outbuilding on site does not form part of the appeal. I also observed during my site visit that the existing outbuilding is being used for storage.
23. Local residents have raised concerns about the number of HMO's already in the area. However, the Council has not raised this as a main issue. Based on the evidence before me, and my observations during my site visit, there does not appear to be an abundance of HMOs within the immediate vicinity of the appeal site.
24. The proposal does not include any extensions or external alterations to the building and does not introduce any new openings/revised window locations. It would therefore not alter the footprint of the existing building, and I have found that the availability of outdoor space would remain acceptable. Therefore, the proposal would not harm the character and appearance of the area, nor harm the living conditions of neighbouring residents, with regard to loss of privacy or light.
25. The submitted plans clearly show the entrance to the HMO to the far side of the front elevation, which would not go through the shop.
26. The proposal appears to achieve an acceptable level of floorspace relevant to housing space standards, with no objections received from the Council's Private Sector Housing team.
27. In addition to the issues already covered above, other concerns raised included effect on property value, an increase in anti-social behaviour and drug taking, and concerns over the type of people who would occupy the premises. Whilst I accept that these matters are of great importance to local residents, these are concerns which are either non-planning matters or are controlled through other separate legislation and bodies such as Licencing, Environmental Health, and the Police.

Conditions

28. I have considered the conditions suggested by the Council taking into account the advice within the Framework and the Planning Practice Guidance. Subject to some minor amendments, I have imposed 9 conditions.
29. In addition to the standard time limit condition, for the purposes of certainty, a condition concerning the approved plans is also required. A condition limiting the number of occupants is necessary as a more intensive use would have different impacts. In the interests of highway safety and sustainable travel, further conditions are imposed requiring the proposed parking layout to be implemented prior to first occupation, and a condition imposed requiring the provision of at least one electric vehicle charging point, and the submission of details for the suitable storage of cycles. These conditions must apply before the development hereby permitted takes place to ensure appropriate provision is made in those respects prior to occupation.
30. I have imposed a condition for security measures and bin storage in the interests of public safety and safety of the end users, and to ensure satisfactory appearance.
31. A Construction Method Statement is required to safeguard nearby residents from undue noise, dust and general disturbance, and in the interests of good environmental management.
32. Where necessary, and in the interests of precision and enforceability, I have altered the wording of the suggested conditions. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the terms of pre-commencement conditions.

Conclusion

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

Helen Smith

INSPECTOR

SCHEDULE OF 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:
 - a. Location Plan – Drawing No PL001 – July 2021
 - b. Block Plan – Drawing No PL002 – July 2021
 - c. Existing Plan – Drawing No PL003 – July 2021
 - d. Existing and Proposed Elevations – Drawing No PL004 – July 2021
 - e. Proposed Plans – Drawing No PL005 – July 2021
- 3) The number of persons residing at the property at any one time shall not exceed 8.

- 4) The development hereby permitted shall not be occupied or brought into use until the off-road parking space shown on the approved plans has been provided for parking and manoeuvring of vehicles. When provided, the off-road parking space for the parking and manoeuvring of vehicles shall be thereafter retained.
- 5) Prior to the first occupation of the development hereby permitted, details of at least one charging point for electric vehicles shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained free of any impediment.
- 6) Prior to the first occupation of the development hereby permitted, details of the refuse/bin storage enclosures and service plan shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 7) Prior to the first occupation of the development hereby permitted, details of security measures (including CCTV, controlled access to the building and external and internal lighting) shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 8) Prior to the first occupation of the development hereby permitted, details of the provision for the secure, and where appropriate, covered storage for cycles, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 9) No development (including demolition) shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include: details of the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from construction works; delivery and construction working hours. All site operations shall be carried out in complete accordance with the approved CMS for the duration of the construction programme.

*****END OF CONDITIONS*****