
Appeal Decision

Site visit made on 1 July 2022

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 15TH August 2022

Appeal Ref: APP/Y0435/D/22/3292059

34 Shackleton Place, Oldbrook, Milton Keynes MK6 2PX

- 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 Mark Marcou against the decision of Milton Keynes Council.
 - The application Ref: 21/02165/FUL, dated 31 August 2021, was refused by notice dated 19 November 2021.
 - The development proposed is described as the retrospective application for the change of use from a 4-bed dwelling (use class C3) to a 4-bed house in multiple occupation (use class C4).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The change of use of the appeal property to a House in Multiple Occupation (HMO) has already taken place. I have therefore considered the proposal on a retrospective basis.

Main Issue

3. The main issue is the effect of the proposed development on (i) the social mix of the area and (ii) the living conditions of the occupants of the adjoining property in respect of noise.

Reasons

Social mix of the area

4. Policy HN7 of the Council's local plan (LP) entitled Plan:MK 2019, aims to maintain mixed, balanced, sustainable and inclusive communities, and states that proposals for HMOs will be approved where they would not create an over concentration of such accommodation, resulting in an imbalance within local communities or other significant adverse impacts. Proposals should comply with the Council's Houses in Multiple Occupation Supplementary Planning Document 2012 (SPD).
5. The Campbell Park Neighbourhood Plan 2018 (NP) policy 1 also aims to maintain a balanced and mixed local community.

6. The SPD aims to prevent an over concentration of any one particular type of housing or household and includes a detailed methodology for the assessment of an application for a new HMO so that the number does not exceed 35% of the total properties within a 100 metre diameter of the application property. The local planning authority (LPA) considers that in the case of the appeal proposal the concentration level is at 51.8%.
7. While the appellant questions the figures used in the above assessment, arguing for example that they include houses being used as HMOs in the absence of planning approvals, there is no persuasive evidence before me to dispute the view that the LPA's assessment follows the calculations as set out in the SPD. This includes an assessment of the number of HMOs based on housing and planning records, all licensed HMOs, and permitted HMOs which do not require a licence or planning permission, but which meet the definition of an HMO.
8. In addition, the SPD opposes the establishment of an HMO if it leaves a family home sandwiched between it and another HMO on its other side. The LPA considers that this applies in this case, and I have no reason to disagree.
9. Therefore, for the above reasons, I conclude that the use of the premises as an HMO conflicts with LP policy HN7, with the SPD and with policy 1 of the NP. Consequently, use of the property as an HMO has caused harm to the social mix of the area.

Noise

10. The SPD states that *'applicants will need to show what measures are proposed in order to ensure that noise from the property would not have an unacceptable impact on surrounding properties'*.
11. While no such details are before me, I find that it would be possible to impose a condition requesting details of proposed noise mitigation measures within a stated timescale. Given the number of likely occupants associated with the use of the property as an HMO, there is no reasonable evidence before me to suggest that it would not be possible to ensure that noise levels would be acceptable from the point of view of the occupants of the adjoining property.
12. In these circumstances, and subject to the imposition of a condition, I therefore conclude that there need not be conflict with LP policies D5 and NE6 which aim to protect a good standard of amenity for occupants.
13. While I have found that the proposal is acceptable in terms of this main issue, this does not alter or outweigh my conclusion in respect of the other main issue.

Other Matters

14. The appellant has referred to other planning decisions, mainly relating to HMOs. However, most are concerned with certificates of lawful development rather than with planning permission. I have no information of the circumstances concerning these, and, in any event, I have determined this planning application upon its individual planning merits.

15. The appeal site is hardly distinguishable in the area from adjoining residences. However, the main issue is concerned with the social mix of the area rather than with the physical appearance of the property.
16. Other issues raised, including the adequacy of the property for waste storage or for the inclusion of a storage area for bicycles, could have been dealt with by way of conditions had I been minded to allow the appeal. However, these are neutral matters in the planning balance and do not outweigh or alter my conclusion on the main issue concerning social mix.

Conclusion

17. For the above reasons, I conclude that the appeal should be dismissed.

Steven Hartley

INSPECTOR