



Appeal Decision

Site visit made on 31 May 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2022

Appeal Ref: APP/G4620/W/22/3292884

160 Lightwoods Road, SMETHWICK, B67 5AZ

- 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 Bharat Pattni against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/66247, dated 13 October 2021, was refused by notice dated 10 December 2021.
 - The development proposed is for first floor and single storey rear extensions with rear dormer window to facilitate the proposed change of use from a dwellinghouse to 7 No. bedroom HMO – house in multiple occupation (pursuant to planning permission DC/21/65962).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Bharat Pattni against Sandwell Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. Within their appeal statement the appellant has requested that the description of development should be amended from that used within their application form. This is due to the fact that the proposal relies on extensions and alterations approved under decision reference DC/21/65962 but which have not yet been carried out. Although I note that the Council amended the description to include reference to the previous permission in their decision notice, I do not find that this is sufficiently clear.
4. It is evident from the plans submitted with the planning application that the development would include the extension of the host dwelling. Moreover, I find that the Council and any interested parties have had the opportunity to comment on the change of description during the appeal process as it forms part of the appellant's statement.
5. Therefore, I do not find that any party would be prejudiced by the change of description and the description in the header above has thus been taken from that suggested by the appellant in their appeal statement.

Main Issues

6. The main issues are the effect of the proposal on (i) the living conditions of neighbouring occupiers by way of noise and disturbance; and, (ii) highway safety with regard to on-street parking.

Reasons

7. The appeal site is a long narrow plot accessed from Lightwoods Road containing a two-storey terraced dwelling with accommodation in the roof and a single-storey rear extension. Lightwoods Road is within a predominantly residential area that is characterised by long terraces along somewhat narrow roads.
8. The appellant has raised that it would be possible under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) to convert the existing Dwellinghouse to a small house in multiple occupation (HMO). This type of conversion is covered by Schedule 2, Part 3, Class L of the GPDO and would allow for the property to be converted to a 6 bed HMO without seeking planning permission.
9. I understand that it is the appellant's intention to carry out such a conversion if the appeal were to be dismissed, and consequently is their fallback position. I note that the Council have not raised any reasons why a conversion under Class L could not be undertaken and have specifically referred to the fact that there is no relevant Article 4 direction covering the site.
10. The fallback position, although smaller, would achieve a similar purpose to the appeal scheme in providing an HMO at the appeal site. Consequently, from the information before me I find that there is a real prospect of this fallback position being implemented and I have consequently been mindful of this in my considerations below.

Living Conditions

11. The submitted plans show the existing dwelling as providing three bedrooms and so it could easily be occupied by a family with children. As the area is a predominantly residential one, it is likely that neighbouring dwellings would result in a level and character of activities and movements similar to those at the appeal site. Moreover, as the dwellings are likely to be occupied by single family units, it is likely that some trips to and from the site may be combined such as the school run or weekly shop while commuting to or from work.
12. The proposal would result in an increase of potential occupiers, up to seven. Given the nature of the accommodation, it is very unlikely that future occupiers would include families or children. Nevertheless, activities on site and the movements to and from the site would remain domestic in nature. However, as future occupiers would likely live within the property as individuals, activities and movements associated with the site would be duplicated and as such, significantly increased. Cumulatively these would result in noise and disturbance which would be significantly greater than can be typically expected of a family home. Given the narrowness of the site and close proximity of neighbours, the above noises would be intrusive and disruptive for neighbours to the detriment of the enjoyment of their homes.

13. As such, I find that the proposed extension and change of use would cumulatively result in a significant and unacceptable impact on the living conditions of neighbouring occupiers as a result of the noise and disturbance associated with the activities and movements of seven independent occupiers.
14. Given that I find that the harm would arise from the intensity of day-to-day activities and movements, rather than particular anti-social behaviours, I do not find that the risk of fines would be effective in preventing the above harm.
15. By way of significantly increasing the number of occupiers, movements and activities associated with the site, the proposal would unacceptably affect the living conditions of neighbouring occupiers. The proposal would therefore conflict with Policies ENV3 and HOU2 of the Black Country Core Strategy and Policy EOS9 of the Site Allocations and Delivery Development Plan Document which, amongst other matters, require that proposals are of a high quality that minimises amenity impacts and is compatible with its surroundings. The proposal would also conflict with the National Planning Policy Framework (the Framework), including Paragraph 130 that requires developments to provide a high standard of amenity.

Highway Safety

16. Lightwoods Road has a relatively narrow carriageway which, while allowing for parking on both sides of the road, only allows for vehicular traffic in one direction at a time. Although the road affords a high level of on-street parking, at the time of my visit, the availability of these spaces was very limited. The few spaces available were primarily being used as passing places. The situation in surrounding streets was very similar, and I do not find any overflow could be easily accommodated in the surrounding area.
17. As noted above, the proposal would result in the increase of bedrooms provided, from three to seven. The resultant increase in occupiers would likely significantly affect the number of parking spaces required to serve the future occupiers. I find the likely increase would be further exacerbated as a result of the difference between the type of occupiers usually associated with each tenure of house. Namely, that the HMO would be occupied by 7 adults who would all have the potential for vehicle ownership. Whereas a family home would more typically not be occupied solely by adults.
18. Given the context of the highway conditions surrounding the site, I do not find that Lightwoods Road, or the adjoining roads, would be able to accommodate the significant increase on-street parking associated with the appeal site. Primarily, there would not be sufficient safe and legal parking spaces to accommodate the increase in vehicles, and moreover, making use of the remaining spaces would result in the reduction of passing places. I find that this would harm the safe and efficient flow of traffic and increase the potential for conflict between vehicles using Lightwoods Road.
19. I note that the site is close to public transport and to local shops. Whilst this may reduce the reliance on motor vehicles and their ownership, I find it unlikely that this would be to such a degree as to prevent the harm to highway safety outlined above.
20. In light of the above, the proposal would result in an unacceptable increase in on-street parking, to the detriment of highway safety and in conflict with

section 9 of the Framework. Section 9, and in particular Paragraphs 111 and 112 which seek for developments to provide safe places that minimise the scope for conflict, including between vehicles, and supports the refusal of developments where they would result in an unacceptable impact on highway safety.

Other Matters

21. As noted, the fallback position is likely to be taken up. Whilst it is a similar scheme to that before me, it would result in one fewer future occupiers. As a result, the noise, disturbance and on-street parking associated with the site would also be less than that before me. While the increase to harm associated with the appeal proposal would be relatively limited in comparison to the fallback scheme, it would nevertheless still be an increase. Therefore, as the fallback position would result in less harm than the scheme before me, it does not justify allowing this appeal.
22. I note the appellant's reference to a number of HMOs along Bearwood Road which were allowed at appeal¹. I have only been provided with the combined appeal decision, and so I do not know the full circumstances of the developments. However, it is clear that there are some significant differences, between the allowed schemes and the proposal before me. This includes their location on Bearwood Road, a commercial street and thoroughfare where noise is likely to be higher than the residential street, Lightwoods Road. Moreover, whilst the Inspector dealing with those cases found that there would be no harm to highway safety, those cases are a few years old. I find that the circumstances have changed and, as outlined above, the parking needs associated with the appeal proposal would not be accommodated by the surrounding roads. This matter has not therefore been determinative in my consideration of the appeal.

Planning Balance and Conclusion

23. The Government's objective is to significantly boost the supply of housing and the proposal would result in a 7 bedroom HMO with adequate access to services. It would also lead to a small and time-limited economic benefit during the construction phase, and some social and economic benefits resulting from future occupiers. Given the small scale of the proposal, and that it would replace an existing dwelling, these matters attract moderate weight.
24. Conversely, the proposal would result in harm to the living conditions of neighbouring occupiers and to highway safety, in conflict with the development plan taken as a whole. These matters cumulatively attract significant weight and outweigh the benefits associated with the proposed development.
25. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Samuel Watson

INSPECTOR

¹ APP/G4620/W/18/3212730 (the first reference in a group of ten combined appeals)