
Appeal Decision

Site visit made on 12 July 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2022

Appeal Ref: APP/X4725/W/21/3287633
52 Pinderfields Road, Wakefield WF1 3LZ

- 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 Hakiba Property Ltd against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 20/02167/FUL, dated 9 October 2020, was refused by notice dated 7 October 2021.
 - The development proposed is described as 'proposed conversion of existing dwelling (use class C3) into a 7 bedroom House of Multiple Occupation (use class Sui Generis)'.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed conversion of existing dwelling (use class C3) into a 7 bedroom House of Multiple Occupation (use class Sui Generis) at 52 Pinderfields Road, Wakefield WF1 3LZ in accordance with the terms of the application Ref 20/02167/FUL, dated 9 October 2020, and subject to the conditions in the attached schedule.

Main Issues

2. The main issues are as follows:
 - Whether the proposal would undermine the aim of achieving an appropriate mix of housing provision in the locality;
 - Whether the proposal would provide suitable living conditions for future occupiers with regards to shared communal spaces;
 - The effect of the proposal on the living conditions of occupiers of adjacent properties with regards to noise and disturbance; and
 - Whether the proposal would contribute to anti-social behaviour in the area.

Reasons

Housing Mix

3. The appeal site comprises a mid-terrace dwelling located in a predominantly residential area of similar properties close to the centre of Wakefield. The proposal seeks to change the use of the dwelling and convert it into a seven-bedroom House in Multiple Occupation (HMO). I understand some of the building work has been carried out, although at the time of the appeal the use had not yet commenced.

4. Policy CS6 of the Local Development Framework Core Strategy (CS) (adopted April 2009) generally seeks for housing to contribute towards creating mixed and balanced communities to be achieved by providing dwellings of the right size, type, affordability and tenure to meet local needs evidenced in relevant studies such as housing needs surveys and strategic housing market assessments, among other things.
5. I understand that there is concern from local residents regarding the number of HMOs in the area. However, there is little evidence before me to suggest that there is an unacceptable concentration of this type of housing in the immediate or wider area that would lead to a material change in its character or would materially affect the mix of house types and tenures. The Council's officer report states there are 12 licenced HMOs on Pinderfields Road at the time the report was written. Although it is mentioned that there are more on nearby streets, I have nothing before me to indicate how many and/or what the proportion of houses nearby that are HMOs. There is reference to a possible move to place the area under an Article 4 Direction to restrict the numbers of HMOs. However, I understand this is not the position at this time, so this carries little weight in my decision.
6. The appellant argues that the property could be converted to a six bed HMO without the need for planning permission under Class L of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO). I note that the Council agrees with this position, and I see no reason to doubt that the appellant would exercise this right were the appeal to fail. As such, the conversion of the property to a 6 person HMO forms a valid fall-back position for the appellant and carries considerable weight.
7. The addition of one person in this context over and above the number of occupants in the fallback position would therefore not alter the housing mix in the area; rather, the HMO would have an additional resident over the number allowed in Part 3 Class L of the GPDO. Moreover, the proposal would contribute to an increased mix and choice of accommodation, with regards to tenure and budget, while also making efficient use of the site in a location close to the city centre.
8. For the reasons given above, I conclude that the proposed development would not have an unacceptable effect on the local housing mix in accordance with Policy CS6 of the CS as detailed above. The proposal would also accord with the aims of the National Planning Policy Framework (the Framework) which generally seeks to provide a mix of size, type and tenure of housing needed for different groups in the community.
9. Policy D9 of the Local Development Framework Development Policies (DP) (adopted April 2009) is also referenced in the reason for refusal, although this relates to design of new development and appears to have little relevance to this main issue.

Living Conditions (Future Occupiers)

10. The submitted 'Proposed Layouts' plan (Drawing No. 20047-200-E) indicates the proposal would include a communal kitchen/living area on the ground floor, while the property includes a rear garden facing Berne Grove. My attention is drawn to the Council's Adopted Standards for HMOs (the Standards) (2018), which advises on space standards, including communal areas. The officer

report details that the proposal would meet the adopted standards for communal areas internally, while the Standards are silent on the size of external areas required other than to advise that there must be suitable and sufficient provision for the storage and disposal of household waste.

11. Although I understand the Standards are guidance and not part of the development plan, they provide a reasonable measure of suitability of spaces for communal living. I see no reason why they should not be applied in this instance, and there is little discussion in the Committee meeting minutes to substantiate this concern. The plans demonstrate that the kitchen/living area is of a reasonable size and layout to allow for a useable space. The garden area to the rear would be sufficient for several people to utilise for sitting outside or drying clothes for example, while I observed there are parks and green spaces nearby. The Proposed Site Layout (Drawing No. 20047-111) also demonstrates that there would be space for bin stores as well as cycle parking for seven bikes.
12. As such, the proposal would provide suitable living conditions for future occupiers with regards to space standards. This would be in accordance with Policy D9 of the DP, which advises in this regard that proposals shall have no significant detrimental impact on the amenity of prospective users. The proposal would also be in accordance with the Framework which advises in paragraph 130 that development should ensure a high standard of amenity for existing and future users.

Living Conditions (Adjacent Residents)

13. The appeal property is in a densely populated location within the city centre catchment area. The proposal would intensify the use of the premises in a manner that would not be typical of family accommodation found elsewhere in the locality. I agree that occupiers would be generally unrelated and there would be a higher propensity for more independent living by the residents of the HMO. This could lead to greater comparable levels of comings and goings as occupiers go about their individual daily business, shopping trips or recreational pastimes. Increased activity may also stem from potentially higher cumulative visitor numbers attending to meet those individual occupiers.
14. However, set against the six person HMO for which the appellant can create without the need for planning permission under a licence from the Council, one additional resident would not increase the use of the dwelling to a harmful degree in terms of noise or disturbance. Moreover, there is nothing before me to indicate that this would be harmful to neighbouring residents, or that occupiers of the HMO would be noisy within the property.
15. Based on the above, the proposal would accord with Policies D9 and D20 of the DP. These seek, among other things, to ensure development proposals have no significant impacts on the amenity of neighbouring users. The proposal would also be in accordance with the Framework which advises in paragraph 130 that development should ensure a high standard of amenity for existing and future users.

Anti-Social Behaviour

16. I have had regard to third party representations received in relation to the concerns of anti-social behaviour from occupiers of the HMO. The issue of crime

and antisocial behaviour has been raised by a number of local residents. However, I have no substantive evidence before to show that the appeal scheme would result in an increase in antisocial behaviour or crime in the area. While I do not doubt that the concerns raised by residents are genuine, without a reasonable evidential basis for this concern, I afford this material consideration little weight. It is my planning judgement that the dismissal of the appeal on this basis is not justified.

17. There is nothing before me to identify that the appeal site would be the cause of anti-social behaviour, formal complaints, poor management, or that the increased occupancy would necessarily be the cause of any such concerns. Fears regarding the quality of the accommodation are unfounded given the extensive renovation works proposed. While the local Police Liaison Officer did advise that HMO properties can be the subject of increased criminal activities due to conflicts between residents, they offered no objections.
18. Accordingly, there is nothing before me to substantiate the concern that the proposal would increase anti-social behaviour or crime in the area. The proposal would therefore align with Policies CS10 of the CS and D9 and D15 of the DP. These generally seek to ensure development proposals create safe and secure environments. The proposal would also accord with paragraph 130 of the Framework which seeks to ensure crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Other Matters

19. I have had due regard to the concerns of local residents, which are largely addressed in the main issues of this report in the relevant sections. Others, such as increased parking pressures, did not form reasons for refusal in the officer report or decision notice. While additional demand for on-street parking would be an inconvenience to local residents, I do not find that this would amount to an unacceptable impact on their living conditions. Nor do I have evidence that this is an issue locally. Concerns relating to the committee meeting proceedings and impacts on property values are not material considerations and do not affect my findings on the main issues.
20. Although suitable fire safety measures are given as a reason for refusal, the Standards advise that all HMOs are subject to an assessment under the Housing Health and Safety Rating System and must comply with the Regulatory Reform (Fire Safety) Order 2005 and Lacors Fire Guidance 2008. These measures include a fire detection system, emergency lighting and a protected route of escape. Moreover, as per the officer report, these matters are subject to separate licencing procedures and building regulations. Moreover, the Council's Strategic Housing team did not object to the proposal. As this would be required under procedures outside of the planning system, I have not considered this matter further.

Conditions

21. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance and paragraph 56 of the Framework. 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 and/or comments with regards to the terms of any pre-commencement conditions suggested.

22. The change of use to a 7 bed HMO has not yet commenced, so I have imposed the standard implementation condition, as required by Section 91(1) of the Town and Country Planning Act 1990. An approved plans condition is necessary in the interests of certainty. A condition limiting the number of occupants to seven is necessary as a more intensive use would have different impacts.
23. In the interests of the living conditions of future occupiers of the HMO, I have included a condition relating to the identification or otherwise of radon gas. A pre-commencement condition to erect the proposed bin-storage area is suggested. While I agree this is important to safeguard living conditions and to provide a satisfactory appearance to the scheme, there is no need for this to be pre-commencement. As such I have amended the wording to ensure this is provided within three months of first occupation. A further condition to provide cycle store prior to first occupation is agreeable and I concur this should be provided to safeguard the character and appearance of the area.
24. Separate conditions to limit the number of bedrooms, ensure matching materials, the erection of fencing and railings, to provide the enlarged basement window and lightwell in the lower ground floor bedroom, and that the window to the side of bedroom 4 is obscured are not considered necessary as these are either already in situ or secured through the approved plans condition. To avoid duplication these have not been attached.
25. A condition to secure details of access controls, arrangements for the safe delivery and storage of mail and cycle storage was suggested. However, there is nothing substantive before me to indicate why these are required, and I have concluded that there is no evidence to suggest crime would increase as a result of the proposal. As such I have not attached this condition. Details of cycle storage are secured through a separate condition to avoid duplication.

Conclusion

26. For the reasons identified above, there are no conflicts with the Development Plan when taken as a whole and I conclude that the appeal should be allowed.

C McDonagh

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Drawing No 20047-110; Proposed Site Layout, Drawing No 20047-111; Existing Layouts, Drawing No 20047-110; Proposed Layouts, Drawing No 20047-200 Rev E; Existing-Proposed Elevations, Drawing No 20047-101 Rev E; External Works, Drawing No 20047-300 Rev A.
3. The number of persons residing at the property at any one time shall not exceed seven (7).
4. The development hereby approved shall not be occupied or brought into use until either:
 - (i) A risk assessment incorporating the details of the associated monitoring at the site for the presence of radon gas has been submitted and approved by the Local Planning Authority (LPA). The results of the monitoring shall be submitted to the LPA as soon as they are available. If the presence of radon gas above 200 Bq/m³ is confirmed, a comprehensive scheme of radon gas protection measures shall be submitted to and approved in writing by the LPA; or
 - (ii) A suitable report is submitted to the LPA which advises that radon protection measures are not required within the development and the LPA has confirmed acceptance of the report and its findings in writing.
5. Within three months of first occupation of the development, the bin storage area will be provided as shown on drawing 20047-300 Rev A. The bin store shall be retained for the lifetime of the development.
6. The development hereby approved shall not be occupied until the cycle stores as shown on drawing numbers 20047-300 Rev A and 20047-111 have been installed and made available for use. The cycle stores shall be retained while the property is in the approved use thereafter.

END OF SCHEDULE