



Appeal Decision

Site visit made on 16 August 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/D1835/W/22/3295338

1-6 Court Mews, Farrier Street, Worcester WR1 3EL

- 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 Edwards, Grolar Development Limited against the decision of Worcester City Council.
 - The application Ref 21/00478/FUL, dated 25 August 2021, was refused by notice dated 17 December 2021.
 - The development proposed is change of use of building from a 48-bed student House of Multiple Occupation (Sui Generis) to a 46-bed homeless refuge House of Multiple Occupation (Sui Generis).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Mark Edwards, Grolar Development Limited against the decision of Worcester City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 1. Whether or not the proposal makes appropriate provision to manage the fear of anti-social behaviour and crime;
 2. Whether or not the proposal would affect planned regeneration works; and,
 3. Whether or not the proposed accommodation would provide satisfactory living conditions and facilities for its occupiers.

Reasons

Anti-social behaviour

4. The appeal property is located in the city centre, next to the elevated railway line and its associated bridge. Some of the arches of the bridge house various businesses. There are also other buildings occupied by a range of uses nearby, including student accommodation.
5. The proposal seeks to utilise the appeal property to accommodate up to 46 residents within a number of self-contained units. Five of these units are proposed as 8 bedroomed Houses of Multiple Occupation (HMO). The sixth would incorporate 6 bedrooms plus two ground floor offices for staff use.

6. The proposed accommodation would be for adults at risk of, or being supported out of, homelessness. The property is intended to be managed by a specialist housing provider, providing supported housing for both men and women from backgrounds of rough sleeping, domestic violence/abuse and offending behaviours, and assessed as being of low risk. The accommodation would be for up to two years to equip residents to live independently and move on to private accommodation.
7. It cannot be presumed that potential occupiers would behave in an anti-social manner or increase opportunities for crime and fear of crime. Nevertheless, the appellant acknowledges that HMO type accommodation can result in some risk of anti-social behaviour.
8. The appellant's submissions state that its residents would require specialist support, visits would be supervised by support workers and that there would be nightly security presence at the appeal property, albeit this is to be reviewed.
9. Therefore, it is likely that the new residents would have more complex needs and require a greater level of support and supervision than that associated with the extant use. The extant use is limited by a legal agreement as term time accommodation for those in full time education (student accommodation).
10. Given the intended temporary nature of the proposed accommodation there is likely to be a high turnover of residents. This, combined with up to 46 residents with a range of needs living in a single building, would require specialist and robust management in the interests of their well-being and to ensure that they can live together harmoniously and with others working, visiting and residing in the area, which is a busy city centre environment.
11. To manage the risk of anti-social behaviour the appellant's submissions rely on the expertise of a specialist housing provider and the submitted 'Accommodation Building Management and Waste / Recycling Plan' ('the Management Plan').
12. Planning permission is required for a material change of use of land, but not for any change of who operates or occupies the site. Therefore, to restrict the use to a certain operator, a person or group of persons, the restriction must be achieved by way of a specific condition or legal agreement. However, there is no mechanism before me to ensure that the appeal premises would be operated in perpetuity by a specified provider and that the accommodation would be occupied for a specific group and as temporary accommodation only.
13. Furthermore, the appellant's submissions state that the development would be staffed 24 hours a day by 5 support workers; a team leader; and a senior support worker who would be available on site between the hours of 9am and 5pm Monday-Sunday. Also, that security staff would be provided out of office hours (e.g., overnight) and that the requirement for this would be reviewed and could be reduced, in lieu of externally monitored CCTV.
14. However, these measures are not fully reflected in the submitted Management Plan. Therefore, I have significant concerns about the effectiveness of this.
15. The appellant and others have suggested that the Management Plan could be secured by a planning condition. However, in the absence of a detailed Management Plan, I cannot be certain that this would meet the requirements of the main parties and would also pass the relevant tests for planning conditions.

16. For the above reasons, I am not persuaded that the proposal adequately addresses concerns about managing the fear of anti-social behaviour and crime. I, therefore, find conflict with Policy SWDP21 of the South Worcestershire Development Plan 2016 ('DP') which amongst other things refers to opportunities for creating a safe and secure environment. Accordingly, I find conflict with the similar aims of Paragraph 130 f) of the National Planning Policy Framework (the Framework).

Effects on planned regeneration works

17. The appeal site lies adjacent to part of a proposed pedestrian route which is intended to link Foregate Street to the riverside. This route is proposed to become a major link in the city's connectivity, as part of the City Centre Masterplan. The Council have also referred to its Arches Project initiative, which seeks to make the vicinity of the appeal site more vibrant by promoting a variety of uses including night-time uses.
18. In the absence of any detailed information about the Arches Project, I attach limited weight to this. Although the City Centre Masterplan is not part of the Development Plan, it has been adopted by the Council who have also acquired funding and a nearby property to facilitate this proposed pedestrian route.
19. Nevertheless, I have not been provided with any specific timescales for the implementation of the proposed pedestrian route. There is also no clear evidence that this would not proceed if this appeal were to succeed.
20. For the above reasons, the proposal would not unacceptably undermine the effectiveness of the planned regeneration works and therefore I find no conflict with Policy SWDP21 of the DP, insofar as this aims to ensure that the public realm and open spaces are well-designed.

Living conditions of occupiers

21. Each HMO incorporates an existing communal amenity area accessible from its shared lounge/kitchen. These comprise small ground floor outdoor areas. No size has been specified for such amenity areas and these would serve a similar number of residents as permitted under the extant planning permission. Also, because the proposal relates to the change of use of an existing building, opportunities for reconfiguring this to create private amenity space are limited. Furthermore, the site's location and accessibility provides opportunities to access other nearby outdoor spaces. Consequently, I consider the level of existing amenity space to be acceptable for the proposed use.
22. Some of the bedrooms incorporate windows that face the arches. In particular, those along the ground floor are close to the footpath which lies between the arches and the front façade of the building. However, given that the appeal property is already occupied by students as temporary accommodation, I see no substantive reason why such accommodation could not be occupied for temporary housing as part of a homeless refuge.
23. Due the proximity of the appeal site to the planned regeneration works the proposed arrangement would result in increased overlooking and noise at the appeal property to the detriment of the living conditions of its occupants. However, because there is no timescale for the implementation of those works, this is not sufficient reason to justify the dismissal of this appeal.

24. Because of the appeal site's proximity and accessibility to shops, facilities and public transport, cycle storage provision would not be necessary. An area for bin storage is identified on the submitted drawings.
25. For the above reasons, and subject to a mechanism to ensure that the appeal property is only occupied as temporary accommodation, if the appeal were to succeed, the proposed accommodation would provide satisfactory living conditions and facilities for its occupiers. I, therefore, find no conflict with design aims of Policy SWDP21 of the DP which require developments to safeguard amenity and ensure appropriate facilities.

Other Matters

26. I acknowledge that the proposal is intended to provide specialist housing within a location that is highly accessible to a range of services and facilities. The proposal would also support the Worcestershire Homelessness and Rough Sleeping Strategy 2019-2022, and contributes towards a mix of housing, which accords with the aims of relevant local and national policies. I have also taken account of the poor viability of the extant student accommodation and support for the proposal. However, these factors do not address my concerns and conflict with the Development Plan.
27. I have taken account of the Public Sector Equality Duty ('PSED') arising from section 149 of the Equalities Act 2010 ('the Act'). The Act requires me to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
28. However, there is insufficient evidence for me to conclude that the occupants of the proposed accommodation would have protected characteristics for the purposes of the PSED. Even if the occupants have protected characteristics, it does not follow from the PSED that the appeal should succeed. In particular, there is nothing before me to indicate why another form of development could not provide for those occupants whilst also managing the fear of anti-social behaviour and crime.
29. The appellant has referred to another facility in the city centre which is operated by their identified specialist provider and advises that this has operated without any incidents of anti-social behaviour. However, I have limited information about this to draw any meaningful comparisons. In any event, each proposal is determined on its individual merits. Therefore, I attach limited weight to the existing facility.

Conclusion

30. I have found that the proposal would provide satisfactory living conditions for its occupiers, subject to ensuring that individuals occupying the appeal property do so on a temporary basis. Also, the proposal would not undermine the effectiveness of the planned regeneration works. Nonetheless, I have found that the proposal does not adequately address concerns about managing the fear of anti-social behaviour and crime. For this reason and conflict with the Development Plan, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR