
Appeal Decision

Site visit made on 2 September 2022

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2022

Appeal Ref: APP/C1950/W/22/3296508

49 Briars Wood, Hatfield AL10 8DH

- 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 Mohammad Choudhry against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/21/2042/FULL, dated 2 July 2021, was refused by notice dated 15 October 2021.
 - The development is described as 3-bedroom mid terrace 2 storey house converted into 6-bedroom HMO with 5 no parking spaces, 2 no bike stores and bin stores.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant's forename is spelt differently on the appeal form compared to the application form lodged with the Council. As the right of appeal rests solely with the original applicant, I have proceeded on the basis that Mr Mohammad Choudhry is the appellant in this case.
3. While the appellant has described the proposal as in the above heading, the Council has referred to it as the conversion of a 3-bedroom house into a 6-bedroom House in Multiple Occupation (HMO) with 3 parking spaces, a bike store to hold 6 cycles and bin stores. From my inspection of the plans, the Council's description more accurately reflects the development sought. I have assessed the development on this basis.
4. The appeal property is in use as a House in Multiple Occupation (HMO).
5. Reference is made to the Welwyn Hatfield Draft Local Plan 2016. However, this Plan is yet to be adopted and its policies may be subject to further modification. Consequently, I attach limited weight to this Plan for the purpose of this appeal.

Main issue

6. The main issue is the effect of the development on the character of the local area with particular regard to vehicle parking and the incidence of HMOs.

Reasons

Vehicle parking

7. The appeal property is a mid-terrace building within an estate style residential area. It addresses Briars Wood along which on-street parking is restricted to residential permit holders during weekdays between 9am and 5pm.
8. The Council states that 3 off-street parking spaces are required to serve the HMO. In support of this approach, it refers to Criterion HMO2 of the Houses in Multiple Occupancy Supplementary Planning Document (SPD), which states that a minimum of 0.5 parking spaces is required per tenancy unit. Since the submitted plans show 3 off-street spaces, the appellant considers that the appeal scheme meets this parking requirement.
9. However, 1 of the 3 spaces would be within a garage opposite the site, the size of which does not appear to meet the minimum dimensions set out in the Council's Interim Policy for Car Parking Standards and Garage Sizes (IP). While the garage might be suitable to park a small car, it would be too short and narrow to accommodate most family sized vehicles given the space needed for a person to enter and exit the vehicle. A car parked on the driveway in front of the garage would also prevent the use of the garage for parking. As a result, drivers of most vehicles would choose to park on the road near to No 49, which is restricted through the week. I, therefore, share the Council's view that the garage does not realistically provide a useable parking space for most vehicles.
10. The appellant says that an extra vehicle could park on the forecourt of No 49, with an illustration of 2 cars parked side-by-side provided. However, the illustration demonstrates that there would be insufficient space for people to enter and exit the vehicle if both parking spaces were occupied. The suggested arrangement would also rely on widening the dropped kerb in front of the site.
11. I accept that the appeal property is close to the University, local shops, and facilities and to bus routes and so public and other non-car means of transport are viable travel options. However, while some of the current occupiers of the HMO may not be car users, the nature of occupancy may change in future, with the potential for increased demand for on-street parking. Interested parties also refer to the difficulties arising from the pressure for on-street parking in the local area, which the development would worsen.
12. Against that background, I conclude on this issue that the development does not provide adequate off-street parking. As such, it conflicts with Policy M14 and D2 of the Welwyn Hatfield District Plan 2005 (DP), Criterion HMO2 of the Council's SPD, the guidance in the Council's Supplementary Planning Guidance Parking Standards 2004 and the IP. Together, these policies and guidance aim to ensure that development achieves a sensible level of parking taking into account existing standards, national policy, and local circumstances.

HMOs

13. The Council's concerns about the effect of HMOs on the character of Hatfield and its community have caused it to issue an Article 4 direction that requires planning permission for a change of use from a dwelling to a HMO. One effect of this direction is to allow proposals for this type of development to be considered on their individual merits, which I have done in this instance.

14. Criterion HMO1 of the Council's SPD deals with the provision of HMOs. To positively manage the amenity and character impacts associated with HMOs and their concentrations, coupled with the need to maintain balanced communities, a limit for HMOs is applied. That threshold is identified as 20% of the total number of dwellings within a radius of 50-metres from the site.
15. By taking this approach, the SPD explains that the problems that often result from an over concentration of HMOs can be avoided. According to the SPD, these problems include unbalanced and unsustainable communities, parking pressure, noise, and anti-social behaviour, neglected gardens, poor refuse management and a lack of building maintenance. Collectively, these factors can have a detrimental effect on the character of an area.
16. In this case, the Council says that 21.7% of the dwellings within a 50-metre radius of the site are HMOs with all but 1 located on Briars Wood. The appellant does not contest these findings. On that basis, the appeal scheme conflicts with Criterion HMO1 of the SPD.
17. As the development facilitates occupation of the appeal building for up to 6 unrelated persons, it could and probably would accommodate more people and potentially attract a greater number of visitors than a 3-bedroom house. If the HMO were fully occupied, the number of people, especially adults, within and going to and from the building could double compared to a typical family. In those circumstances, the appeal property would be more intensively used with an appreciable effect on the character of the local area.
18. I accept that No 49 is well placed to provide student accommodation given that the University is nearby, as the appellant's evidence demonstrates. I also acknowledge that poor refuse and garden management can be exhibited by any occupiers, regardless of the tenure of that property. However, these are recognised problems of, for example, groups of students living together in unmanaged accommodation who, due to their generally short stay in an area, often have little affinity with the settled residential community. This can result in a degradation in the appearance of the property and its garden, which then adversely impacts on the street scene and the character of the area.
19. From what I saw, most occupiers of properties along Briars Wood take pride in their both their properties and the area, with houses and gardens maintained in addition to refuse bins brought in from the footway. These actions contribute to the generally pleasant ambience of the area. In that context, the negative external effects of the HMO would be sufficiently noticeable to harm the area's character.
20. Consequently, the appeal scheme fails to comply with DP Policies SD1 and D2 and Criterion HMO1 of the SPD, which require development to respect the character and context of the local area. It is also at odds with the National Planning Policy Framework, which requires that developments take account of the different roles and character of different areas and add to the overall character of an area.

Other matters

21. The appellant has received a licence to operate the HMO and says that he was originally advised by the Council that planning permission was not required.

However, the licensing and planning regimes are different and planning permission is required for the development sought.

22. The appellant considers that the Council has been inconsistent in its decision taking by altering its objections to development proposals that he considers are the same or very similar. As each development is assessed on its own merits, it is possible that the considerations material to a particular application differ to those of another. In this case, the Officer's report is well-reasoned and, for the reasons given, I share the Council's concerns.
23. The appellant considers that the site has been in continuous use as a HMO for more than 4-years and that the '4-year town agreement' applies. In the absence of a copy of this agreement or an explanation of its terms I am unable to consider this point further. For the avoidance of doubt, my determination is in the context of an appeal made under section 78 of the above Act.

Conclusion

24. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR