



Appeal Decision

Site visit made on 4 April 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2023

Appeal Ref: APP/Y0435/W/22/3306612

1 Middleton, Great Linford, MILTON KEYNES, MK14 5DG

- 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 Tawanda Mudavanhu against the decision of Milton Keynes Council.
 - The application Ref 22/00740/FUL, dated 24 March 2022, was refused by notice dated 20 June 2022.
 - The development proposed is the Change of Use from Use Class C3 (Residential) to Class C4 (HMO) (Retrospective).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of any additional parking requirement on highway safety and the amenity of local residents;
 - Whether the occupiers of the proposed HMO units and the neighbouring residential property would be likely to suffer from noise and disturbance; and
 - Whether the proposal makes proper and adequate provision for refuse storage and cycle parking.

Reasons

Background

3. The appeal site comprises an end-of-terrace two storey property which fronts Middleton but the side garden runs alongside St Ledger Drive and the rear garden backs onto a public footpath. The local area is principally residential in character with a mixture of houses and bungalows. The houses facing Middleton have a landscaped area of parking spaces and grass verges to the front.
4. I note that the Council has granted a licence for the HMO.

Policy Context

5. The development plan includes the Council's Local Plan MK:2016 – 2031 (the MK Plan) and the Great Linford Parish Neighbourhood Development Plan North (the NP). The main policies relevant to the appeal are:- Policy HN7 of the MK

Plan, together with related policies, and Policy N3 of the NP. Both of these relate to proposals for a change of use to a house in multiple occupation (HMO). I also note that the Council's MK parking standards Supplementary Planning Document (SPD) was updated and adopted since the decision was made on the planning application.

Effect on parking

6. The appellant says that while there are no parking spaces within the site it is the local practice that the occupiers of the house use one of the front parking spaces. This would be in respect of the lawful use of the property as a dwelling house. The Council advises that the change of use to a 5-bedroom HMO would generate a need for 4 spaces based on the reduced standards in the updated SPD. This would be a serious deficiency of parking provision compared to the lawful use as a dwellinghouse.
7. I have taken account of the appellant's submissions about the closeness of the site to public transport and that not every occupier of an HMO room would have a car. Nevertheless, the parking standards take account of such geographic and social aspects. I also note from the representations made by local people that the area already suffers from parking stress with *ad hoc* parking on grass verges and pavements, and I saw some evidence of this at my site visit. Moreover because of the layout of the housing development the appeal site is away from the highway and there seems no opportunity to increase off-road parking provision.
8. Overall on this issue I find that the use for a five bedroom HMO would be likely to generate additional parking demands which cannot be accommodated on site and this would be likely to lead to further indiscriminate parking on-road and on the pavement to the detriment of highway and pedestrian safety. This amounts to a significant adverse impact and the proposal conflicts with the provisions of the SPD pursuant to Policy HN7, and parts (d) and (e) of Policy N3 in the NP.

Noise and disturbance

9. The HMO SPD highlights that HMOs can lead to noise and disturbance with additional 'comings and goings' and noise within individual rooms compared to a dwelling house, and especially where there is an adjoining neighbour. The SPD therefore sets out that a noise assessment will generally be needed to ensure that internal walls are of such construction that meet a sound insulation standard of 40dB. No assessment has been submitted with the application or the appeal.
10. The appellant's agent says that there is no difference between an HMO and a residential dwelling which could involve noisy children. Moreover, the agent says that although the use commenced some time ago there have been no complaints about noise made by neighbours.
11. However the onus of proof lies on the appellant and although the proposed HMO use is retrospective there is no assessment to show that the physical construction of the property would be able to contain noise to individual rooms to the prescribed minimum level, and also not travel through party walls to neighbours and cause disturbance.

12. As the proposal stands, I find that it has not been demonstrated that a 5 bedroom HMO can be accommodated in the host terraced property without resulting in noise and disturbance to other users of the property or to neighbours, contrary to the guidance in the HMO SPD and parts (c) and (f) of Policy N3.

Provision for bikes and bins

13. Although provision is not made within the proposal for bin storage and cycle parking I agree with the appellant that there is ample land available within the curtilage of the appeal site property to accommodate these functional aspects without causing a visual impact. I am therefore satisfied that this issue could be resolved by the submission of further details as required by a condition on any permission.

Planning balance

14. On the main issues I have found that the proposed 5 bedroom HMO use would result in a parking need which cannot be met on site and this would be likely to result in indiscriminate further parking on the highway, pavement and verges which would not be in the interest of highway or pedestrian safety. Moreover, it has not been demonstrated that this end-of-terrace property can be intensively used as an HMO without resulting in noise and disturbance to other residents or to the occupants of the adjoining property. These aspects result in significant adverse impacts and result in the proposal conflicting with the relevant provisions of the development plan.
15. This has to be balanced with other considerations, including the additional small residential units, and would help meet the government's aim of significantly boosting the supply of homes. However, these general aspects do not outweigh the conflict with the development plan or the local harm that I have found would be likely to arise. This indicates that the appeal should not be allowed.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR