



Appeal Decision

Site visit made on 20 April 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2023

Appeal Ref: APP/Y0435/W/22/3304878

37 Mitcham Place, Bradwell Common, Milton Keynes MK13 8BX

- 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 Marcou against the decision of Milton Keynes Council.
 - The application Ref 22/00677/FUL, dated 18 March 2022, was refused by notice dated 24 June 2022.
 - The development proposed is change of use from a 5-bedroom dwelling (Use Class C3) to a 5-bedroom dwelling HMO (Use Class C4)
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a 5-bedroom dwelling (Use Class C3) to a 5-bedroom dwelling HMO (Use Class C4) at 37 Mitcham Place, Bradwell Common, Milton Keynes MK13 8BX in accordance with the terms of the application, Ref 22/00677/FUL, dated 18 March 2022, subject to the following conditions:
 1. The development hereby permitted relates to the following approved plans: Block Plan, Location Plan, Site Plan and As Existing Plan.
 2. Unless within six months of the date of this decision schemes for cycle parking, refuse storage and a drying area, are submitted in writing to the local planning authority for approval, and unless the approved schemes are implemented within six months of the local planning authority's approval, the use of the site as a House in Multiple Occupation (HMO) shall cease until such time as schemes approved by the local planning authority are implemented.

Upon implementation of the approved schemes specified in this condition, that provision shall thereafter be maintained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Preliminary Matters

2. The application is retrospective, but I have deleted reference to that in the header above, as it does not form an act of development. I am satisfied that neither party is prejudiced by this course of action.

Main Issues

3. The main issues are:

- the effect of the proposal on the living conditions of neighbouring occupiers and whether the proposal would provide acceptable living standards for future occupants, with particular regard to noise and disturbance; and
- the effect of the change of use on the character of the area, having regard to housing mix and community cohesion.

Reasons

Living Conditions

4. The appeal relates to the occupation of the property by five people. This would not be too dissimilar to the use of the property as a single dwellinghouse by a family who say comprised two adults and three children. I acknowledge that the use of the HMO may have the potential to result in slightly more internal activity and visiting guests than the use as a single dwelling. However, I do not consider that the scale of such activity in respect of noise or disturbance would be such that it would cause any material harm to the occupiers of neighbouring residential properties or future occupiers.
5. The evidence suggests that as it is currently used, the appeal property does not cause any obvious harm to the living conditions of neighbours or those currently occupying the HMO. As such, the change of use from a five-bed family home to a five-bed HMO is acceptable in this location, as the level of internal activity and comings and goings would be similar to that of a family dwelling with older children.
6. Furthermore, the operation of the house as an HMO since 2016 has not attracted any noise complaints. As such, whilst no noise mitigation information has been provided, I attach considerable weight to the fact that the appeal building has operated for a number of years without generating any noise or nuisance complaints. In my view, the appeal scheme does not result in any significant adverse impacts for neighbouring properties and would provide a good standard of amenity for future occupiers.
7. For these reasons, I can therefore only conclude that the development does not harm the living conditions of the occupiers of neighbouring properties and would unlikely result in harm to future occupiers with regard to noise and disturbance impacts. In this regard, it would accord with Plan:MK Policies D5, HN7 and the Houses in Multiple Occupation Supplementary Planning Document (SPD), which together, amongst other things, seek to ensure a good standard of amenity and avoid significant adverse impacts.

Mix of housing types

8. Plan:MK Policy HN7 sets out that to maintain mixed, balanced, sustainable and inclusive communities, proposals for HMOs will be approved where they would not create an over-concentration of such accommodation resulting in an imbalance within local communities or other significant adverse impacts. The SPD dictates that the HMO concentration should not exceed 35% of the total number of properties within a 100m diameter buffer of the application property. As also set out in the SPD, the 35% figure is used as a guide to when the concentration is too great, but the character of the surrounding area will also be taken into account.

9. In this instance, both main parties have referred to a 50m radius, with a third party referring to a 100m radius, within which existing HMOs have been identified on Arbrook Avenue. The appeal property is located off Arbrook Avenue on Mitcham Place and is a mid-terrace dwelling which forms part of an enclosed cul-de-sac. This cul-de-sac arrangement means that a direct or visual relationship between the appeal property and other HMO properties on Arbrook Avenue is not in place.
10. There is a dispute between the parties as to whether the total number of HMOs within the buffer would be above the 35% SPD figure. Even if I was to accept that the 35% guide threshold has been exceeded, the appeal proposal has not given rise to unacceptable harm in terms of the concentration of HMOs at the street level or any other significant adverse impacts. Noting the identified presence of HMOs on Arbrook Avenue, I am satisfied that an undue concentration of such properties would not result from this proposal. As such, the appeal scheme maintains a mixed, balanced, sustainable and inclusive community.
11. In finding there would not be an overconcentration of HMOs in compliance with Plan:MK Policy HN7 and the provisions of the SPD, there is no requirement for me to consider if there would be an overconcentration in the wider area.
12. Given these factors, I conclude the proposal would not harm the character of the area having regard to housing mix and community cohesion. In these regards, it would accord with Plan:MK policy HN7 and the aims of the SPD to avoid a negative impact on the character of the area.

Other Matters

13. I have had regard to the comments provided by a third party on the availability of GP appointments. However, I have not been provided with any substantive evidence to demonstrate that the proposal would have an unacceptable effect on nearby GP Surgeries.
14. Additionally, it has been drawn to my attention that there may be unlicensed HMOs and one-bed flats within the area. However, as no evidence has been provided to demonstrate this, I have therefore attached no weight to it.

Conditions

15. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the National Planning Policy Framework and Planning Practice Guidance.
16. In the interests of certainty, a condition specifying the approved plans is required.
17. For the reasons set out above, I find that the appeal scheme is acceptable with regard to noise impacts, and there is no requirement for a condition to seek noise mitigation measures.
18. With respect to protecting the living conditions of future occupiers so as to guard against any significant adverse impacts from the proposal and to ensure the installation of satisfactory facilities and as insufficient details have been provided, a condition is necessary to secure the provision of appropriate refuse storage, cycle storage as well as a drying area.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

A Hickey

INSPECTOR