



Appeal Decision

Site visit made on 30 March 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/W1850/W/22/3302864

50 Barrs Court Road, Hereford, Herefordshire HR1 1EQ

- 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 Clemmings against the decision of Herefordshire Council.
 - The application Ref 220720, dated 8 March 2022, was refused by notice dated 20 May 2022.
 - The development proposed is 'change of use from dwelling house (C3) into an 8 bedroom house of multiple occupancy (sui generis) and put an extension onto the back of the house'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Mark Clemmings against Herefordshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal scheme is described as part retrospective. I observed that conversion of the rooms in the attic and basement have progressed, whereas the proposed rear extension had not. I have determined the appeal on that basis.
4. The proposed development references change of use to an eight bedroom house in multiple occupation (HMO). Each room is said to exceed the minimum room size of 6.5sqm, with reference to the Council's General Amenity and Facilities Standards for HMOs. Therefore, a reasonable assumption would be that the proposal was intended to provide for eight occupants. However, clarification was sought as to whether the appellant would accept a condition to restrict the number of future occupants to eight individuals at any one time. In response the appellant advised that a maximum of twelve occupants was sought, but a limit to a maximum of ten occupants would be accepted. I have taken that into account in my determination of this appeal.
5. A fallback position exists due to the potential for the building to be converted to an HMO under permitted development rights. This could provide accommodation for up to six unrelated individuals. The existence of this fallback position is not a matter in dispute between the main parties. I observed that the appellant has undertaken a considerable amount of work in converting the existing rooms within the house, including the attic bedrooms.

Therefore, in the event that the appeal were unsuccessful, it appears reasonably likely that the appellant would proceed with letting of the building as a six person HMO. Consequently there is a greater than theoretical possibility that the fallback scheme would be implemented. I afford the fallback position considerable weight.

Main Issues

6. The main issues are:

- the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to parking stress, noise and disturbance; and
- whether or not the proposed development would achieve acceptable living conditions for its future occupants, with particular regard to outlook and natural light in the proposed basement living space, and internal living space and natural light within the proposed attic bedrooms.

Reasons

Living conditions of neighbouring occupants

7. Concerns were raised by the Council and some local residents about the pressure for on-street parking. Specifically, the potential for the proposal to result in increased parking stress for existing local residents due to greater competition for a limited number of parking spaces, and increased time required to locate a suitable parking space. However, the appeal site is within a controlled parking zone. As a result, on Barrs Court Road and in the surrounding area, opportunities for on-street parking are restricted to permit holders or are time limited.
8. The Council's guidance on resident parking, the Explanatory Information – Resident Parking Permit Application (Permit Guidance), confirms that for zone 4, in which the appeal site is located, there is a permit allowance of 2 for each dwelling. Therefore, whilst future occupants of the proposal would be entitled to apply for a permit, a maximum of two permits would be available for the appeal scheme. No substantive evidence is before me to indicate otherwise.
9. Consequently the parking restrictions, in combination with good accessibility to nearby goods and services and sustainable transport modes, are likely to make it less attractive for future occupants of the proposal to travel by car and seek to park in the vicinity of the appeal site. As such, any change to parking availability as a result of the development would in all likelihood be minor and not sufficient to unacceptably harm living conditions of the occupants of properties in the vicinity.
10. I have been made aware of an appeal decision relating to a ten person HMO at 61 Stanhope Street (Ref 3146029). However that site appears to be located on a narrower residential road, lined by houses on both sides, and without parking restrictions. In that case, it appears that the demand for on-street parking and the absence of controls on parking would be likely to result in considerably greater parking stress than in the case of this appeal. Therefore the circumstances of that case are not sufficiently similar to alter my reasoning here.

11. Whether or not parking on the appeal site at the front of the house is authorised is not a matter for consideration within this appeal. In any event, that space is not proposed to be changed through the appeal scheme. Furthermore, the space is very limited. Therefore use of that space for parking would not give rise to unacceptable disturbance to neighbours as a result of increased vehicle manoeuvring, car engines and audio noise.
12. The proposal would inevitably result in more people coming and going at the front of the appeal site than a five bedroom home for occupants living as one household. However, the appeal house is semi-detached and therefore there is a degree of separation between the front doors of the appeal site and that of the adjacent house at No 49. Although the front door of No 50 is adjacent to that of No 51, they each have their own access from Barrs Court Road. As such, occupants of the proposal would not pass directly in front of adjacent houses. This would limit the potential for undue disturbance to the occupants of neighbouring houses from additional comings and goings at the front of the appeal site.
13. Within the appeal dwelling, there would be two main communal areas comprising the kitchen at groundfloor level and a living room within the basement. Consequently, future occupants of the proposal and their visitors would be likely to make use of both areas rather than all congregating in one area for any extended period of time. This, together with the location of the living room below groundfloor level, would limit the intensity of any noise and disturbance to neighbouring occupants from use of these rooms.
14. The appeal garden would provide communal outdoor space for its future occupants. However, the extent of the space available would be reduced by the proposed single storey rear extension. In addition, use of the rear garden by up to twelve future occupants plus any visitors would comprise a noticeably more intensive use than would be expected for the occupants of the existing five bedroom home living as one household. Furthermore, given the number of proposed occupants, it is also likely to result in the duration of use of the garden being longer, with residents making use of the extra communal space that the garden would provide.
15. In addition, the appeal site is located in a relatively high density area, where neighbouring gardens are modest in scale. This would limit the potential for neighbouring occupants to be able to move to a quieter space within their gardens in the event of undue noise and disturbance from the appeal garden. In that context, the nature of the noise from occupants in the appeal garden need not be deliberately antisocial to cause undue disturbance to neighbours. Such disturbance would be particularly intrusive for neighbouring occupants during warmer weather when they are likely to want to make greater use of their gardens and have their windows open.
16. The fallback position would be unlikely to result in a harmful increase in noise and disturbance in the rear garden in comparison to its use by a five bedroom household. Whereas, in comparison to the fallback position, the proposal for twelve occupants would amount to a noticeably greater intensity of use of the rear garden, with potential for up to six additional occupants. Similarly, a limit to eight occupants would not give rise to a materially greater intensity of use than the fallback scheme. Whereas an increase from a six person HMO to one that accommodates ten people would.

17. As such, the likely increase in intensity of the use of the garden from ten or twelve occupants and any visitors would unacceptably harm the living conditions of neighbouring occupants with respect to noise and disturbance experienced in their respective gardens or houses. For the reasons given, the existence of the fallback scheme does not alter my conclusions on this matter. Furthermore, evidence that this could reasonably be controlled by effective management of the HMO is not sufficiently persuasive.
18. Accordingly, whilst the proposal would not unacceptably harm the living conditions of neighbouring occupants with respect to parking stress, the intensity of use of the appeal site's rear garden would unacceptably harm their living conditions with respect to noise and disturbance. Therefore, it would conflict with Policies SD1 and SS6 of the Herefordshire Local Plan – Core Strategy 2011-2031 (October 2015) (Core Strategy). Amongst other matters, these seek to ensure proposals protect the residential amenity of existing occupants in the locality. It would also conflict with paragraph 130.f) of the Framework which seeks to ensure that development maintains high standards of amenity for existing and future users.

Living conditions for future occupants of the proposal

19. The appellant submits that attic room 1 provides 10.5sqm of floorspace with a minimum floor to ceiling height of 1.5m, not including the floorspace within the ensuite bathroom. Also that attic room 2 provides 8.9sqm of equivalent floorspace. Therefore, attic room 1 is said to provide sufficient space as a double occupancy room, and attic room 2 would be single occupancy. No scale is provided on the submitted floor plans and no annotated dimensions are given to allow further scrutiny of the floorspace figures. Nevertheless, from the information available in combination with my observations I am satisfied that attic room 1 exceeds the minimum of 10.22sqm useable floorspace for a double occupancy room, and attic room 2 exceeds the minimum of 6.5sqm of useable floorspace for a single occupancy room, with regard to the Council's General Amenity and Facilities Standards for HMOs.
20. However, I observed that the useable floorspace in attic room 2 in particular was heavily constrained by the sloping roofs. In addition, that furniture within the bedroom would occupy much of the available floorspace. Whilst acceptable for a single occupancy room, the proposal for a maximum of twelve occupants would require some of the rooms to be occupied by couples. There is no mechanism before me through which the number of occupants of attic room 2 could effectively be limited to one. Therefore I cannot be satisfied that the proposal would achieve acceptable living conditions for future occupants with respect to internal space in attic room 2. This would also be the case in the event of a restriction to ten occupants.
21. Each of the attic bedrooms has a vertical window within the dormer projections. These windows are relatively modest in scale but provide views out of nearby buildings and the sky. Accordingly natural light in these rooms appeared adequate. Within the basement a vertical window and an angled window provide a reasonable outlook across Barrs Court Road to buildings beyond and intervening trees. Although I accept that this would be somewhat constrained in the event of vehicle parking at the front of the property. Nevertheless, a reasonable sized communal kitchen would provide separate communal space for future occupants with an outlook at groundfloor level.

Although a daylight and sunlight assessment has not been provided to address light levels within the basement, in the circumstances of this case I am satisfied that natural light appeared acceptable without artificial lighting, even on a day with some cloud.

22. Consequently I conclude that the appeal scheme would provide suitable living conditions for future occupants of the appeal building with regard to outlook and natural light in the proposed basement living space, and natural light within the proposed attic bedrooms. However, for the reasons given I cannot be satisfied that the proposal would provide acceptable living conditions for future occupants of attic room 2 with respect to living space. Therefore, despite some elements of compliance, the proposal as a whole would not accord with Policy SD1 of the Core Strategy. This requires proposals to provide acceptable living conditions for future occupants. It would also not accord with paragraph 130.f) of the Framework in failing to ensure a high standard of amenity for future occupants of attic room 2.

Other Matters

23. The Council reference the River Wye Special Area of Conservation (Lower Wye sub-catchment) (the SAC) as a constraint in their officer report. The SAC is designated as a water course of plain to montane levels, with floating vegetation often dominated by water-crowfoot. Reference is also made to its transition mires, quaking bogs and very wet mires, as well as to white-clawed crayfish, sea lamprey, brook lamprey, river lamprey, allis shad, twaite shad, Atlantic salmon, bullhead and otter.
24. Policy SD4 of the Core Strategy seeks to ensure proposals do not undermine water quality targets and avoid adverse effects from wastewater discharge into SAC designated rivers. I note also that impacts on the SAC did not form part of the Council's reasons for refusal due to the potential for the proposal to result in significant effects on the SPA having effectively been screened out. In any event, as the appeal is being dismissed for other reasons there is no need to consider this further.
25. The proposal would make greater use of an existing building, providing an increase in private rented living accommodation. I see no reason to doubt that the conversion work and extension would be carried out to a high standard. The site is located in an area with good accessibility to a range of goods and services and sustainable transport choices. However making effective use of the building as supported by chapter 11 of the Framework, should not be at the expense of maintaining satisfactory living conditions for neighbouring occupants and achieving suitable living conditions for all future occupants of the appeal scheme.

Conclusion

26. Therefore, for the above reasons, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR