



Appeal Decision

Site visit made on 30 August 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12th October 2023

Appeal Ref: APP/G4620/W/23/3318872

The Hollybush, The Uplands, Smethwick B67 6BL

- 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 G Dillon against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/67124, dated 30 May 2022, was refused by notice dated 13 January 2023.
 - The development proposed is the change of use and alteration of public house to create 21no. bedroom house in multiple occupation (HMO), erection of 2no. dwellings, car parking, access, cycle and refuse store and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use and alteration of public house to create 21no. bedroom house in multiple occupation (HMO), erection of 2no. dwellings, car parking, access, cycle and refuse store and associated works at The Hollybush, Smethwick, B67 6BL in accordance with the terms of the application, Ref DC/22/67124, dated 30 May 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. During the application process, the number of bedrooms within the house in multiple occupation (HMO) was reduced from 23 to 21 and the number of dwellings was reduced from three to two. As a result, I have used the description of development that was included on the decision notice dated 13 January 2023 as it more accurately describes the proposed development.

Main Issue

3. The main issue is whether the proposed development would result in additional crime and disorder or the fear of crime.

Reasons

4. The proposed development would involve the conversion of a large public house into a 21 bedroom HMO and the erection of two dwellings along with associated works.
5. I observed at the site visit that the current public house is in a poor state of repair and the proposal would undoubtedly improve the visual amenity of the area.
6. In terms of whether the proposal would result in additional crime and disorder, the Council acknowledge that the West Midlands Police (WMP) do not object to the proposal. In fact, they have provided helpful and constructive observations

and recommendations. For example, although WMP recognise that shared areas can increase friction between residents, they also highlight that a good feature is that all rooms have an ensuite and have made other suggestions, including that a CCTV system would assist security, which could be secured by condition.

7. I accept that shared facilities can cause a degree of friction between residents, and this may lead to the need for police to attend a particular HMO. I have taken account of the area surrounding the appeal site, which is within an established residential area with elderly persons bungalows located opposite the site and schools within the vicinity. I have also noted that a significant number of local residents have expressed concern about the introduction of a large HMO in this location and that WMP would prefer self-contained flats. However, the proposed development has been well designed and notwithstanding the large number of units proposed, the accommodation has been appropriately and thoughtfully laid out to ensure that each floor is served by its own kitchen/living area proportionate in size to the number of units served.
8. The fact that each unit would have its own ensuite is a good feature which would ameliorate the chance of conflict that could occur if the proposal had communal bathroom facilities. Further, I have no reason to doubt that the HMO would be well managed, and again a condition could be imposed to secure an on-going management plan.
9. I have taken account of the information that has been provided about crimes that are committed within a certain radius of existing HMOs. However, that data does not relate to the HMOs themselves. In any event, I am not persuaded that this general area wide information indicates that the proposal before me, which as outlined above has been well designed, would cause an unacceptable level of crime and disorder and consequently, this information has not altered my view that the proposal would be acceptable in planning terms.
10. I therefore conclude that in accordance with Paragraphs 92 and 130 of the National Planning Policy Framework the proposal would create a safe place where crime and disorder and the fear of crime would not undermine the quality of life or community cohesion.

Other Matters

11. I have considered all other matters raised. In addition to the concerns about crime and disorder and the fear of crime, I am satisfied that the proposal would not result in highway safety concerns and would provide adequate parking provision. Concern has been expressed that the appellant will not ultimately manage the HMO. However, that has no significant bearing on the planning merits of the case. Although I accept that there may be a greater demand for other types of residential development, such as one or two bedroom flats, I nevertheless consider that the HMO will make a valuable contribution to the housing stock of the area and the fact that there may be a greater demand for other types of housing does not alter my view that the proposal would be acceptable.

Conditions

12. I have had regard to the conditions suggested by the Council and amended and reordered them as necessary in the interests of precision and clarity, as well as to comply with advice in the Framework and Planning Practice Guidance (PPG). It is necessary to impose some pre-commencement conditions and the appellant has confirmed that they agree to such conditions.
13. A condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. A pre-commencement condition to control the finished floor level is required in the interest of neighbouring living conditions and in the interest of the appearance of the proposal. To ensure that any risk of contamination of the site is appropriately addressed it is necessary to impose a pre-commencement condition to undertake an appropriate investigation. It is necessary to attach a pre-commencement condition requiring the approval of a drainage schemes to ensure that appropriate drainage is in place and that the development does not increase flood risk on or off-site. Due to the location of the appeal site within an established residential area and to avoid noise and inconvenience to local residents it is necessary to impose a condition requiring that a construction method statement is approved and implemented.
14. A condition requiring that details of materials to be used is necessary in the interest of the appearance of the scheme and the surrounding area. It is necessary to impose a condition to ensure that appropriate boundary treatment and visibility splays are provided. Further it is necessary to impose a condition to ensure appropriate landscaping is implemented.
15. In the interests of sustainable transport, it is necessary to attach a condition requiring the provision of cycle parking facilities. It is also necessary to attach a condition requiring the provision of refuse storage facilities to ensure the appropriate management of refuse on the site. A condition requiring the installation of electric vehicle charging points is reasonable and necessary on sustainability grounds.
16. In the interest of security, appearance, and the effective management of the HMO it is necessary to impose conditions in relation to external lighting, the implementation of a management plan and security measures, including cctv. To ensure that future residents of the HMO have appropriate living conditions it is necessary to impose a condition to ensure that the shared areas as shown on the approved plans are retained.
17. To protect the living conditions of neighbouring residents it is necessary to ensure that windows in the northwest elevation are obscure glazed. However, due to the position of the proposed windows relative to the new dwellings and the proposed erection of close boarded fencing it is only necessary to impose this restriction at first floor and above.
18. Although I am satisfied that the two dwellings would sit comfortably on their plots, due to the limited depth of the proposed gardens there is a clear justification to limit permitted development rights to avoid overdevelopment of the site.

19. It is necessary to attach conditions requiring the provision of parking and in relation to the two new dwellings dropped kerbs in the interests of highway and pedestrian safety.

Conclusion

20. For the reasons given, I conclude that the appeal should succeed.

S Rawle

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: (10)001 S2; (40)003 S3; (41)002 S1; (40)001 S4; (30)002 S5; and (30)001 S10.
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed two new dwellings, in relation to existing ground levels, including their relationship with the highway and existing developments, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures. Before the development is first occupied a verification report for all remediation works shall be submitted to and approved in writing by the local planning authority.
- 5) Development shall not commence until details of drainage works (including a sustainable drainage system) for the disposal of both surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be implemented before the development hereby permitted is first occupied and thereafter retained as such.

- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours which shall be limited to 0800 to 1800 Monday to Friday and 0800 to 1400 on Saturday with no working on Sundays or Public Holidays.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No construction above slab level for the two new dwellings hereby permitted shall commence until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) Prior to the first occupation of the development hereby permitted details of the boundary treatment to include the visibility splays shown on approved plan (30)001 S10 shall be submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be implemented before the first occupation of the development and shall be retained in that form thereafter.
- 9) Prior to the first occupation of the development hereby permitted a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority.
- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) The development hereby permitted will not be occupied until details of secure cycle parking for the development has been submitted to and approved in writing by the local planning authority. The approved cycle scheme shall be implemented prior to the first occupation of the development hereby permitted and will be retained in that form thereafter.

- 12) The development hereby permitted will not be occupied until details of the refuse storage facilities for the development, including a service/management plan for the HMO element has been submitted to and approved in writing by the local planning authority. The approved refuse storage and service/management plan shall be implemented prior to the first occupation of the development hereby permitted and will be retained in that form thereafter.
- 13) The development hereby permitted will not be occupied until details of the electric vehicle charging bays, each with an electric vehicle charging point, to comply with the Black Country Air Quality Supplementary Planning Document has been submitted to and approved in writing by the local planning authority. Prior to first occupation of the development the electric vehicle charging points and bays shall be installed in accordance with the approved details and will be retained in that form thereafter.
- 14) The development hereby permitted will not be occupied until details of an external lighting scheme has been submitted to and approved in writing by the local planning authority. Prior to first occupation of the development the approved lighting scheme shall be implemented in accordance with the approved details and will be retained in that form thereafter.
- 15) The development hereby permitted will not be occupied until a HMO Management Plan has been submitted to and approved in writing by the local planning authority. The plan will include details of the steps to be taken to prevent or reduce antisocial behaviour by occupiers and visitors. The plan will be implemented in accordance with the approved details.
- 16) The development hereby permitted will not be occupied until details of security measures associated with the HMO, which will include CCTV and controlled access to the building, shall be submitted to and approved in writing by the local planning authority. Before the HMO element is first occupied the approved security measures shall be implemented and retained in that form thereafter.
- 17) All external and internal shared areas of the HMO element of the development hereby permitted will be provided in accordance with the approved plans and will be retained in that form thereafter.
- 18) The development hereby permitted shall not be occupied until the windows at first floor level and above of the northwest elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), in relation to the two new dwellings no development covered by Class A, AA and B of Schedule 2 (Part 1) of that Order, shall be erected other than those expressly authorised by this permission.

- 20) The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing no. (30)001 S10 for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 21) The two new dwellings will not be occupied until the new dropped kerbs as shown on drawing no. (30)001 S10 have been provided and shall be retained thereafter.

*****End of Conditions*****