



Appeal Decision

Site visit made on 17 October 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2023

Appeal Ref: APP/P3420/W/23/3320033

13 Underwood Road, Newcastle Under Lyme ST5 6QG

- 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 Jason Brown against the decision of Newcastle-under-Lyme Borough Council.
 - The application Ref 22/01023/COU, dated 9 November 2022, was refused by notice dated 3 February 2023.
 - The development proposed is the change of use of a 6 bedroom HMO to an 8 bedroom HMO (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of a 6 bedroom HMO to an 8 bedroom HMO (Sui Generis) at 13 Underwood Road, Newcastle Under Lyme ST5 6QG in accordance with the terms of the application, Ref 22/01023/COU, dated 9 November 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan (ref: TQRQM22334172817067), Ground Floor (Page 2/28), 1st Floor (Page 13/28) and 2nd Floor (Page 23/28).
 - 2) The development hereby permitted shall not be occupied by more than eight persons at any one time.

Applications for costs

2. An application for costs was made by Mr Jason Brown against Newcastle-under-Lyme Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. Based on the information before me, at the time of my site visit the appeal property was in use as an 8 bedroom house of multiple occupation (HMO). I have proceeded accordingly.

Main Issue

4. The effect of the development on the character and amenity of the area, including the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

5. This appeal concerns a two storey, semi-detached property, which has undergone various extensions and alterations. It is located within a predominantly residential area.
6. The evidence indicates that the property was previously used as a 6 bedroom HMO. This appeal seeks permission to use it as an 8 bedroom HMO. In the event that the appeal was unsuccessful, I consider it reasonably likely that the appellant would proceed with letting of the building as a 6 person HMO, given it has operated as such for numerous years and various works have been carried out to the property to facilitate this use.
7. Consequently, this represents a fallback for which there is a greater than theoretical possibility that it would be implemented, thus I afford this fallback position significant weight.
8. As an existing HMO accommodating 6 unrelated individuals there would already be a level of activity, noise and disturbance from the occupiers. There would be some increase in activity resulting from the addition of two extra bedrooms, including more people coming and going at the front of the appeal site.
9. However, the appeal property is semi-detached and there is a good degree of separation between its front door and that of the attached dwelling. There is also generous space between other neighbouring properties due to the width of the carriageway and arrangement of built form.
10. There is a large rear garden which would provide ample communal space for 8 occupiers and a double garage and parking area to the rear. Other on-street parking would likely occur along various stretches of the wide carriageway.
11. Collectively, these factors limit the potential for undue disturbance to the occupants of neighbouring houses from additional comings and goings at the front of the appeal site. I consider that, generally, increased comings and goings above the previous use would not be readily discernible.
12. I nevertheless acknowledge that individuals of the HMO may have different living characteristics and routines to occupiers of a single-family dwellinghouse. Namely, many would arrive at and leave from the property at varying times throughout the day.
13. However, the appeal property could accommodate a large family given its generous size and there is therefore no reason for me to consider that the daily routine and activity of occupiers of the HMO, which could be conditioned to be no more than 8 people, would be significantly more intense than a large family.
14. Moreover, unacceptable levels of noise and disturbance are not the inevitable consequence of HMOs and it would be unreasonable to assume that future occupiers would create excessive noise or disturbance. This is a question of individual behaviour. Whilst late night incidents of noise and activity have and may occur at times, this would be similar to a single-family dwellinghouse and it would be down to the appropriate management of the property.
15. In terms of the character of the area, I observed that the appeal property already appears as a large dwelling which is reflective of others in the immediate locality. The intensification of the former single-family dwelling and

proposed increase in bedrooms and resultant number of occupiers above the fallback position would not be perceptible from public vantage points, in terms of the character of the area. Moreover, as the property has been operating as a 6 bedroom HMO, this use at the appeal site would not be new.

16. Taking all the above into consideration, there is no substantive evidence before me to show that the proposal would significantly increase the level of activity, noise or anti-social behaviour to the detriment of the living conditions of neighbouring occupiers or that the development harms the character of the area.
17. The Council's decision notice refers only to the National Planning Policy Framework (the Framework). Accordingly, I have relied upon the guidance at paragraph 130 of the Framework, which states that developments should have a high standard of amenity for existing users which, for the reasons noted above, this proposal accords with.

Other Matters

18. The Council has raised no concerns with regards to the effect of the proposal on parking and it seems to me that this area does not suffer from high levels of on-street parking stress. Further, the appeal site has provision for some off-street parking.
19. I note the concerns that neighbour's privacy has been reduced by virtue of the rear dormer at the appeal property. However, the dormer provides space for two bedrooms and a bathroom, rather than the main living rooms of the property. Thus, any overlooking which may occur would be similar to that which occurs mutually between properties in built-up residential areas such as this.
20. Concern regarding the internal insulation between the appeal property and the attached dwelling is not a matter for me within the context of this appeal.

Conditions

21. A time limit condition is not necessary as the use has already been implemented. A condition stating the approved drawings is necessary to provide certainty and there is nothing before me to suggest that the development has not been implemented other than in accordance with the submitted plans.
22. A condition limiting the maximum number of residents is also necessary to avoid unacceptable harm by reason of noise to the living conditions of neighbouring occupiers. Whilst the Council consider such a condition could not realistically be enforced on a day-to-day basis, and I appreciate it could be difficult to monitor compliance or detect a breach, it would not be impossible. Thus, such a condition would meet all of the tests set out in paragraph 56 of the Framework.

Conclusion

23. For the reasons set out above, the appeal should be allowed.

H Ellison
INSPECTOR