



Appeal Decision

Site visit made on 3 October 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Appeal Ref: APP/D1835/W/23/3318831

55 Martley Road, Worcester WR2 6HG

- 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 Bidsid Ltd against the decision of Worcester City Council.
- The application Ref 22/00980/FUL, dated 30 August 2022, was refused by notice dated 24 February 2023.
- The development proposed is for Two-storey side extension and change of use from a 5 bedroom House in Multiple Occupation (Use Class C4) to a 7 bedroom House in Multiple Occupation (Use Class Sui Generis).

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Bidsid Ltd against Worcester City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The original description of the development on the application form was 'Change of use from a 6 bedroom HMO to become a 7 bedroom HMO (sui generis)'. However, the extension that was to be built to facilitate a 6-bedroom HMO has not been completed. Furthermore, the appeal proposal involves the erection of a two-storey side extension, which the appellant did not include in his original description. Therefore, I have used the Council's description of development as it is more accurate. Furthermore, the appellant has used the Council's description on the appeal form and by doing so is in agreement to it.
4. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published on 5 September 2023 and replaces the previous version published in July 2021. However, as any policies that are material to this decision have not fundamentally changed in the Framework, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.

Background and Main Issue

5. The existing semi-detached dwelling was granted permission¹ to become a 5-bedroom House in Multiple Occupation (an HMO). Planning permission² has also been granted for a change of use from a 5-bedroom to a 6-bedroom HMO including a ground floor side extension. On my visit I saw the property was in

¹ LPA Ref:19/00315/FUL granted 21 November 2019

² LPA Ref: 22/00449/FUL granted 26 August 2022

use as an HMO but that the single storey side extension has not been completed – indeed only the foundations and a few brick courses had been constructed. The appeal before me is for the erection of a two-storey extension to enable the property to become and operate as a 7-bedroom HMO.

6. The Council raises no issue with the principle of creating a 7-bedroom HMO in this location, nor to the scale, design and appearance of the proposed two-storey side extension. From the evidence before me and what I saw on site, I have no reason to take a different view. I have therefore confined my assessment to the proposed provision of outdoor private amenity space.
7. The main issue is therefore whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of outdoor private amenity space.

Reasons

8. Policy SWDP21 of the South Worcestershire Development Plan (the Plan) seeks to ensure, amongst other things, that development is of a high quality design. This accords with the advice in the Framework of achieving good design. The Framework also expects development to have high standards of amenity for existing and future users.
9. The Council's "Houses in Multiple Occupation Supplementary Planning Document"³ (the HMO-SPD) does not set out standards for the amount of outside amenity or garden space HMOs should provide. However, in the appendices reference is made to the Policy H17 of the Worcester Local Plan that expected such properties to provide landscaping of not less than 100sqm as communal amenity space. The HMO-SPD refers to what was then the emerging Policy SWDP14 being a replacement for Worcester Local Plan Policy H17. The South Worcestershire Development Plan (the Plan)⁴ was adopted in February 2016 with the replacement Plan Policy SWDP14. This policy refers to HMOs as part of the overall housing mix but does not include prescribed standards for outdoor amenity space provision. The Council does not refer to the 100sqm standard from the former Worcester Local Plan Policy H17.
10. The only outdoor amenity space standard the Council refers to comes from its Design Guide SPD in relation to the amount of private usable garden that should be retained after a house extension has been built and suggests a standard of 20sqm per bedroom. However, this is directed at residential dwellings and the Council acknowledges that HMO occupants might use outdoor garden space differently to occupiers of a single dwelling. Hence it is not directly relevant.
11. Nonetheless, the Design SPD goes on to offer general advice that employs fairly common design principles for achieving good levels of outdoor amenity, such as private garden spaces are a positive part of a dwelling's amenity and generally should be sufficient to meet the likely needs of the occupiers; that the space is compatible with the overall size of the property for normal domestic activities, such as bin storage, clothes drying, sitting out and play space; and that the space should also enjoy a high degree of privacy from surrounding gardens or properties, the public street and from any other public places.

³ Adopted October 2014

⁴ Adopted February 2016

12. All of the above guidance indicates to me there is no longer a requirement for HMOs to have no less than 100sqm of outdoor private amenity space, or that there is any other similar prescribed standard that applies directly to HMOs. Nonetheless, the outdoor amenity space still needs to be of adequate size, type and quality to ensure it would allow meaningful space for a large household of 7 independent people to carry out basic activities such as sitting out, general enjoyment and drying laundry.
13. When the property was granted planning permission to become a 6-bedroom HMO the Council considered the then 45sqm of rear outdoor space combined with the 240sqm of front garden would provide an acceptable amount of private amenity space for its intended occupants. However, it appears that a rear extension has since been built which, according to the Council, has reduced the rear garden space to 25sqm. This is a significant reduction. I saw that the existing rear amenity space was small, enclosed on all sides and laid out slabs with a washing line strung across. I saw no outdoor seating areas or cycle storage facilities.
14. The submitted plans show the rear and front amenity space would be altered. The proposed rear amenity space is annotated to show it would amount to 60sqm, with a bench and secure parking for 7 bicycles indicated. This appears to be achieved by demolishing the garage, which I saw currently forms part of the boundary. The plans also show the enlarged rear space would have an irregular configuration with a dogleg, which would reduce the useability of the space effectively creating more of an access route for bicycles and from the existing parking spaces as it passes the end of the rear extension that has been built.
15. However, the plans are poor quality, so it is unclear exactly what is proposed. A gate and a boundary of some sort is shown passing part way through the garage, with the end of the existing garage still in place. This discrepancy indicates to me that not all of the enlarged space would be available for use and hence the rear amenity space would in effect be smaller. Consequently, if I were minded to allow the appeal and impose a condition that the development be carried out in accordance with the submitted plans, the ambiguity with the plans means I could not be certain of the extent or configuration of the rear amenity space that would be available for occupiers to use.
16. The area to the front of the house is currently gravelled apart from a small area of artificial grass close to the front door and front window, on which a wooden picnic table with benches was sited. I saw that the property occupies an elevated and prominent location on the corner of Martley Road and Fern Road. It was a busy location with shops on the other side of the road and a bus stop close by. As a result, the front amenity space was visible from public vantage points and not very private. However, before the rear extension was built, occupants had a bigger rear amenity area to use.
17. The front garden area would be reduced in size to about 100sqm, less than half of what it was which is a significant reduction. However, the space would also be remodelled. The artificial grass area would be removed and instead, directly outside the front door and front window, 2 car parking spaces would be created together with a driveway and turning area accessed off Fern Road. The remainder of the front garden would then be lawned and divided by a central pedestrian path leading from the gate off Martley Road.

18. The creation of two car parking spaces directly outside the front door would physically and visually separate the grassed amenity space from the property. As a result, the useable part of the amenity area would be displaced further from the property such that occupiers would be closer to the corner of the road, traffic and bus stop. In addition, the proposed boundary treatment around the front of the property would comprise a 600mm high dwarf wall with railings. This would not provide any meaningful privacy to occupiers using the space so close to the road, that would be exacerbated by the elevated and sloping nature of the front garden. Planting a hedge would provide enhanced privacy, but this would leave current occupants with no privacy for a considerable length of time while a hedge grows and matures.
19. Thus the severance of the amenity space from the property and the lack of privacy would make the front amenity area less attractive to use. This would then put increased pressure on the use of the rear amenity space, which would be unsuitable for the reasons already described.
20. The appellant regards the combined front and rear amenity space would amount to 160sqm. Even if this exceeded a 100sqm requirement from previous guidance, I find the configuration and divisions of the front and rear spaces, coupled with the lack of privacy at the front, would provide a poor quality environment for occupiers of the property.
21. In conclusion, the proposed enlargement of the property to create a 7-bedroom HMO with the additional car parking but a reduction in the amount, usability and quality of the outdoor private amenity space would result in over development of the site. The proposed and somewhat ambiguous and contorted configuration of amenity space to the rear and the severed space at the front and lack of privacy would fail to achieve a high quality environment for occupants to use. As a result the proposal would have an adverse effect on the living conditions on future occupants of the property. Accordingly the proposal would be contrary to Plan Policy SWDP21. It would also be contrary to general advice in the HMO-SPD and the Framework.

Other Matters

22. Laudable as the Travel Welcome Pack for occupants is, it does not alter the fact that the proposal shows additional car parking being created on the front garden and an overall degradation of the outdoor private amenity space provision, even if it allows vehicles to turn and not need to reverse into Fern Road.
23. My attention has been drawn to a number of other HMO examples, although I have not been provided with their full details or circumstances. The appeal decision for a 7-bedroom HMO in Stainburn Close had a rear garden of about 106sqm. This is considerably larger than the rear garden area proposed for the appeal site and is in a different location. I saw that 1 Hallow Road occupied a corner plot and had a large gravelled front garden. However, it did not occupy the same elevated setting close to shops and a bus stop and I have limited details as to the other facilities occupants would have available to them.
24. Whilst consistency in decision making is important, all decisions turn on their own particular circumstances based on the facts before each decision-maker at the time. Both applications are of a different scale and in different locations and contexts to the appeal proposal. As such they are not directly comparable to

the appeal scheme before me, which in any event I must determine on its own merits.

25. I acknowledge the appellant's concerns with the Council's handling of the case, but in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

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

K. Stephens
INSPECTOR