



Appeal Decision

Site visit made on 31 October 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/K2420/W/23/3319982

78 Queens Road, Hinckley, Leicestershire LE10 1EF

- 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 Ranvir Dhillon against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 22/00394/FUL, dated 22 April 2022, was refused by notice dated 16 December 2022.
 - The development is Proposed New Build to the side of 78 Queens Road to create a 10 bed HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has set out within their appeal submission that if 10 bedrooms are not acceptable then they are prepared to reduce the number of bedrooms proposed to 8. An amended set of floor plans, to show 8 bedrooms, is embodied into their appeal statement. The appeals procedural guide¹ makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority (LPA), and on which interested people's views were sought. Having regard to the principles established in *Holborn Studios Ltd*², and the comments made by the LPA on the suggested change, the amended description of the development would be materially different to the development applied for and would be fundamentally different to the development that was subject to consultation. Therefore, in the interests of fairness, this appeal must be determined based on the description of development which the LPA made its decision. To do otherwise could unacceptably prejudice the interests of other parties.

Main Issue

3. The main issue raised by this appeal is the effect of the proposed development on the living conditions of the occupiers of nearby properties, with particular regard to noise and disturbance.

Reasons

4. Queens Road is a typical urban residential street with the prevailing character being terrace properties positioned at the rear of the footway with on-street parking on both sides of the road. The housing tenure in the area is varied and

¹ Procedural Guide: Planning Appeals – England (2023)

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

the road is well used by pedestrians and motor vehicles. Therefore, due to its location, reasonably high levels of activity during both the day and night can be expected.

5. The proposed development would introduce a new two storey building into the street, which would be occupied as a 10-bedroom house in multiple occupation (HMO). A large garden would be located at the rear and the submitted plans show a bin storage area, with external access between the proposed new building and No 78 Queens Road (No 78). No 78 is already in use as a 6-bedroom HMO and the proposed building would be adjoined to both No 78 and the neighbouring property, No 74 Queens Road (No 74).
6. The main parties have drawn my attention to a recent planning permission on the site, reference 21/00683/FUL, for a new terraced, two and a half storey, three bedroom house in the same location as the appeal proposal. The main parties also accept that, once constructed, it could be converted and occupied as a small HMO under Use Class C4 of the Town and Country Planning (Use Classes Order) 1987 (as amended), which are defined as small, shared houses occupied by between 3 and 6 unrelated individuals sharing basic amenities. Consequently, this represents a fallback position for which there is a greater than theoretical possibility that it would be implemented on the basis that the appellant already operates a similar HMO next door.
7. I acknowledge that an HMO accommodating 6 unrelated individuals would result in some degree of activity, noise, and disturbance from the occupiers. However, the proposal would be occupied by an additional 4 unrelated people, which would result in a noticeable intensification in the amount of people living in the appeal property and associated activity, when compared to a 6 person HMO and those of a single family home.
8. The proposed building would be attached to No 74. I have not been provided with any substantive evidence to demonstrate that the additional 4 unrelated people would not generate more noise and disturbance than the fallback position. The proposed intensification of occupation would increase comings and goings, including visitors and deliveries, as well as increased activity within the building, and people using the outside spaces around the property. Thus, in the absence of substantive evidence to the contrary, I am not satisfied that the proposed intensification of occupation, directly adjoining No 74, would not result in unacceptable levels of noise and disturbance beyond levels which would be considered reasonable in a residential area.
9. Even though the Councils Environmental Health department did not raise objections, the level of activity from 4 additional, unrelated individuals, for the reasons already set out, would be significant, even in this densely populated residential area.
10. For the reasons outlined above, the proposed development would harm the living conditions of neighbouring occupiers by virtue of unacceptable increased noise and disturbance. Therefore, the proposed development would not accord with Policy DM10 of the Site Allocations and Development Management Policies DPD 2016, which seeks, amongst other things, developments that do not have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings.

Other Matters

11. I acknowledge that concerns are raised about the potential property upkeep, waste disposal, and a high turnover of occupants. However, there is no substantive evidence to demonstrate that these matters would be inherently harmful to the living conditions of neighbouring occupiers. Additionally, suitable bin storage arrangements in the rear garden area are proposed, which could be secured by a suitably worded condition. Furthermore, the premises are likely to be the subject of some form of management and level of upkeep from the owners.
12. While I am mindful that the proposed development may lead to increased parking demand on the road, the site is located within a sustainable urban area and it is a reasonable assumption that future residents would choose to walk or cycle to access services and amenities, as well as use public transport. Furthermore, I am also mindful that two parking spaces would be available on the road as a result of the proposed development, and I have not been provided with any substantive evidence to suggest that the proposed development would result in or exacerbate an existing on street parking problem.
13. The appellant has set out that there is a high demand for the accommodation and the proposal would meet an identified need in the area. They also suggest that the Council during a previous appeal decision, (ref APP/K2420/W/21/3287157), accepted that this type of accommodation, near to a town centre, supports the diversification of the town's housing stock to cater for a range of house types and sizes. While, I have no substantive evidence before me of the demand or need for this type of accommodation in the area, I acknowledge that the proposal would add to the mix and type of properties in the locality and contribute to boosting new housing in the area, as referenced in the National Planning Policy Framework.
14. It would also provide the associated social, economic, and environmental benefits that this type of accommodation would contribute to. Nonetheless, the benefits in the area would be limited.
15. Taking the above matters into consideration, the benefits or other material considerations relating to the proposal would not outweigh the identified harm that I have found would be caused in relation to the main issue.

Conclusion

16. For the reasons set out above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight to indicate that a decision should be made other than in accordance with it. Therefore, the appeal is dismissed.

N Bromley

INSPECTOR