



Appeal Decision

Site visit made on 21 November 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2023

Appeal Ref: APP/T3725/W/23/3326755

2 Rai Court, Beauchamp Road, Leamington Spa CV32 5RP

- 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 Parveen Rai of Rai Investment Group against the decision of Warwick District Council.
- The application Ref W/22/1744, dated 22 November 2022, was refused by notice dated 20 July 2023.
- The development proposed is described as 'change of use to 4 Bed HMO. This a new build house we are seeking an HMO C4 application'.

Decision

1. The appeal is allowed and planning permission is granted for the proposed development described as 'change of use to 4 Bed HMO. This is a new build house we are seeking an HMO C4 application', at 2 Rai Court, Beauchamp Road, Leamington Spa CV32 5RP in accordance with the terms of the application, Ref W/22/1744, dated 22 November 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 940-01A, 940-09A, 940-10, 940-11A, Bin Store EXT.
 - 3) The development hereby permitted shall not be occupied unless and until the refuse and recycling storage areas for the development have been constructed or laid out in strict accordance with the approved plans and made available for use by the occupants of the development. Thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse and recycling associated with the development. The development hereby approved shall not be occupied until it has been provided with the appropriate containers necessary for refuse, recycling and green waste, in accordance with the Council's specifications. Refuse and recycling storage containers must be stored within the refuse and recycling storage areas shown on the approved plans, except when being presented on street for collection.
 - 4) The development hereby permitted shall not be occupied until storage for bicycle parking has been provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. This storage shall thereafter be kept available for the parking of bicycles.

Preliminary Matters

2. The name of the appellant used in the banner heading above has been confirmed by them during the course of the appeal. Not all of the plans and information that was before the Council when it made its decision was provided by the appellant on submission of the appeal. I therefore sought this from the appellant. The Council has confirmed that the information subsequently provided was the same as that upon which it had reached its decision. Therefore, I am satisfied that no parties would have been prejudiced by this.

Main Issue

3. The main issue is whether the proposal would provide adequate arrangements for the storage of refuse and recycling.

Reasons

4. The appeal site consists of an existing dwelling within a residential area close to the town centre. The proposal seeks to convert the building into a four-bed House in Multiple Occupation (HMO). The site is within the Royal Leamington Spa Conservation Area (CA). Policy H6 of the Warwick District Local Plan (WDLP), adopted September 2017, requires amongst other things that proposals for HMOs make adequate provision for the storage of refuse containers, where they can be moved to the collection point using an external route only.
5. In accordance with the Council's Residential Design Guide Supplementary Planning Document (SPD), dated May 2018, occupiers of the proposal as a 4-person HMO would be required to have one 240L grey bin, two recycling boxes and two recycling bags. The property has an enclosed bin store at its front. Although different bin storage arrangements have been suggested, it is proposed to keep the grey bin and the two recycling boxes in this enclosure. Accordingly, these containers would be hidden from areas accessible by the public and would have an external route to the collection point on the pavement outside, thus complying with Policy H6.
6. The remaining containers would be kept within a bin store proposed within the rear garden. As such, they would be taken through the house for collection, thereby conflicting with Policy H6. Occupiers may seek to avoid such internal movements by leaving the containers on the pavement at all times, as has occurred elsewhere. At the appeal site, this would to some extent detract from the character and appearance of the area. It would also reduce the usable extent of the pavement, although it is fairly wide here.
7. Nevertheless, the existing dwelling already has four bedrooms, whose occupiers would also generate waste and recycling regardless of the outcome of this appeal. The SPD has a higher refuse container requirement for a 4-person HMO (240L bin) than a 4-bed dwelling (180L), reflecting the greater waste generated from HMO use. However, there is no dispute that the larger size of bin could be accommodated within the existing front enclosed area, meaning that it would not need to be wheeled through the house. The other waste and recycling requirements of the SPD are no more onerous for the proposal than for the existing dwelling.
8. On this basis, the effect of the proposal in respect of waste and recycling storage on the character and appearance of the area or usage of the pavement

would be no worse than at present. For the same reasons, the proposal would not have a greater adverse effect on the amenities of nearby residents or the future occupiers of the proposal. Furthermore, by proposing an additional area of external bin storage (as well as cycle storage) to the rear, the proposal would result in a moderate benefit over the current arrangement. A planning condition could also be used to require that refuse and recycling storage containers are kept within the dedicated areas other than for collection.

9. I have found that the proposal would partially conflict with one element of WDLP Policy H6 regarding waste transfer. However, for the reasons given above, I give only limited weight to this conflict and greater weight to the benefits of the proposal. I therefore consider that the proposal would provide adequate arrangements for the storage of refuse and recycling.

Other Matters

10. The evidence before me is that, including the proposal, the proportion of HMOs would not exceed the threshold of WDLP Policy H6 for such units. Nor would it result in a non-HMO unit being sandwiched between HMOs, or a continuous frontage of HMOs. Consequently, the proposal would not result in an undue overconcentration of such units and would comply with the other requirements of WDLP Policy H6.
11. A parking survey demonstrates that there is adequate capacity on-street for the additional vehicles generated by the proposal. The Council does not dispute the findings of the survey or that the proposal would preserve the character and appearance of the CA and the setting of nearby listed buildings. I see no reason to disagree. Concerns about the external finish of the existing property are not relevant to the effects of the proposed change of use.

Conditions

12. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty.
13. A condition is required to secure that the proposed waste and recycling storage arrangements, both to the front and rear of the property, are made available for this use and subsequently remain so, and that refuse and recycling storage containers are stored within these areas except when being presented on street for collection. A condition is also necessary to secure cycle parking, in the interests of encouraging sustainable transport use.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed.

O Marigold

INSPECTOR