



Appeal Decision

Site visit made on 29 December 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2024

Appeal Ref: APP/M4510/W/23/3331889

1 Oakland Road, Jesmond, Newcastle NE2 3DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Niels Trinder against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2023/1037/01/DET, dated 13 July 2023, was refused by notice dated 5 September 2023.
 - The development proposed is described as, *'change of use from Class C4 (6 bed HMO) to Sui Generis (7 bed HMO) Requires no external changes, only addition of stud wall and door'*.
-

Decision

1. The appeal is allowed and planning permission is granted for development described as, *'change of use from Class C4 (6 bed HMO) to Sui Generis (7 bed HMO) Requires no external changes, only addition of stud wall and door'* at 1 Oakland Road, Jesmond, Newcastle NE2 3DR in accordance with the terms of the application, Ref 2023/1037/01/DET, dated 13 July 2023, subject to the conditions set out on the attached schedule.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the supply of family housing in the area;
 - The effect of the proposed development on the character of the area having regard to the level of concentration of Houses in Multiple Occupation (HMO);
 - Whether the proposed development would provide satisfactory living conditions for future occupiers in relation to internal and external space;
 - The effect of the proposed development on the living conditions of existing occupiers in relation to internal and external space and the effect on existing neighbouring occupiers in relation to noise and disturbance; and
 - Whether the proposed development would provide safe, secure, and usable cycle parking and refuse storage to meet the operational needs of the proposed development.

Reasons

Family housing and character

3. Policy CS9 of the Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030, 2015 (CS) seeks to ensure that communities are sustainable for the future and prevents the loss of family homes through subdivision, change of use or redevelopment. Policy SC1 of the Maintaining Sustainable Communities Supplementary Planning Document, 2017 (SPD) specifically relates to HMOs and amongst other things, resists development where it would result in the loss of good quality, spacious and convenient dwellings suitable for occupation by a family by reason of its location and level of amenity and so remove the dwelling from the stock within the overall housing mix.
4. The appeal site accommodates an end-terraced residential property located within a residential area along Oakland Road. The property forms part of a row of other similar terraced properties with external yards to the rear. It is located close to shops and local services and is well served by public transport.
5. It is undisputed that the property currently comprises a 6 bedroomed HMO (Class C4) and has done for some time. To this end, an application for Lawful Development Certificate for existing use as HMO (C4) was granted on 20-07-2022 under reference 2022/0522/01/LDC. The proposed development seeks planning permission for a change of use from a 6 bed HMO (Class C4) to a 7 bed HMO (Sui Generis).
6. I note the Council's claims that the makeup of Oakland Road comprises Class C4 HMOs and Class C3 dwellinghouses and whilst the property and location could be considered suitable for family occupation, this is not currently the case and there is no firm evidence that there is any reasonable prospect of this property being occupied by a family now or in the future. Consequently, the proposed development would not result in the loss of a family home, and I cannot agree that the development would remove the property from the market as this property has already been removed from the market as a family home through its use as an established 6 bedroomed HMO.
7. The proposed development would comprise a Sui Generis Use Class and I appreciate that if future occupiers wanted to occupy the property as a Class C3 dwellinghouse, a planning application would be required to permit this change which they would not need to do under the existing use class. I also note that the internal changes proposed may not be suitable for family occupation. Nonetheless, this does not change the fact that the existing property is not currently occupied by a family and thus would not result in a loss in this regard.
8. The SPD sets out that there is a need to prevent an oversupply in the HMO market, with its associated issues of under investment, poor maintenance and void properties which could all adversely impact a neighbourhood's character. It goes on to explain that the impacts on communities of high concentrations of HMOs and temporary accommodation include amongst others, an unbalanced housing market. Policy SC1 of the SPD therefore resists development where it would lead to a level of concentration of such uses that would be damaging to the character of the area.

9. I have had regard to the research undertaken by the Council which sets out that the existing number of licenced HMOs along Oakland Road comprises approximately 30% of the properties, with the remaining 70% comprising C3 residential use. Whilst there is a balance of residential uses along Oakland Road, HMO uses do not dominate which is reflective in the above figures and the area is therefore not currently unbalanced. The property already comprises a 6 bedroomed HMO and the proposed development merely seeks to provide an additional bedroom which would not result in an over proliferation of HMOs in the area that would lead to an imbalanced community. The general activity associated with the internal arrangement and development of this size is likely to result in one additional occupant which would not be so significantly different to that of the existing as to adversely impact the overall character.
10. The proposed development would result in the appeal site comprising the first property along Oakland Road that would be a 7-bed HMO with planning permission, being the sole Sui Generis Use Class on Oakland Road and I note concerns regarding a precedent for other HMO accommodation in large properties to increase their numbers. However, this would not alter my findings above and I have considered this appeal based on its own merits and evidence before me. Any future applications would be subject to an assessment of their own. I am aware of third-party concerns regarding the general nature of HMOs including antisocial behaviour. However, no clear evidence has been provided to demonstrate that issues relating to antisocial behaviour is currently an issue at the appeal site or that any such issues would arise from this scheme.
11. For the above reasons, I conclude that the proposed development would not result in the unacceptable loss of a family house and would therefore not have a detrimental effect on the supply of family housing in the area. It would also not lead to a level of concentration of HMO uses that would be damaging to the character of the area. It would therefore accord with Policy CS9 of the CS. For the same reasons, it would also accord with the SPD and aspirations of the National Planning Policy Framework (the Framework) in this regard.

Living conditions – existing and future occupiers

12. The proposed additional bedroom would be created by dividing the existing living/dining area and would have a total floor area of 6.81 square metres. As set out in the Officer's report, the Nationally Described Space Standards (NDSS) states that all bedrooms must be greater in size than 7.5 square metres and all exceed 2.15 metres in width. It appears undisputed that there is no specific guidance on HMOs, or properties with over 6 bedrooms and thus is only used as a guide for considering residential amenity at the appeal site. Whilst substandard based on the above figures, it is not uncommon for HMOs to have smaller rooms given their overall nature and the proposed size of the additional bedroom would not be so insufficient in size as to have an unacceptable impact on the living conditions of future occupiers. Additionally, future occupiers would also have access to other habitable spaces such as the lounge/dining room which is of a greater size despite it being reduced to accommodate the development.
13. In terms of the existing occupiers, based on the evidence before me, the size of the bedrooms would remain unchanged as part of the proposed development. Despite 5 of the bedrooms falling under the minimum floor area as set out within the NDSS, this element of the scheme is not subject to

change and thus would not have any material impact over and above the existing situation. Concern has also been made in relation to the external amenity provision given the arrangements proposed for the bicycle parking and refuse storage within the external rear yard. However, the property already comprises a 6 bedroomed HMO and it is likely that the rear yard is already used for cycle/refuse provision or could be reasonably used for such purposes at any time. The proposed development merely seeks to provide an additional bedroom likely to result in one additional occupant which would not alter the existing situation to a harmful degree. Overall, I am not convinced that the proposed arrangements at this property would result in poor and cramped living conditions for existing and future occupiers even if the properties were never intended to house greater occupancy levels.

14. Having regard to noise, there is no firm evidence before me to suggest that the existing property results in existing levels of noise and disturbance for neighbouring properties including those located at ground floor level despite its occupancy levels which are situated on the first and second floor. A third party has referred to noise complaints on the street although no further detail has been provided for me to be able to consider this matter further. It is also not clear if this is in relation to the appeal property itself. Even if I were to accept claims regarding existing noise, the proposed change of use would provide one additional bedroom and thus likely one additional occupant. Despite the lack of details in relation to sound insulation, the overall movements and general activity associated with a development of this size would not be so significantly different to that of the existing to materially or harmfully impact the amenity of neighbouring occupiers in relation to noise and disturbance particularly at a level over and above what can be reasonably expected within such a C3/C4 residential setting.
15. For the above reasons, I conclude that the proposed development would provide satisfactory living conditions for existing and future occupiers in relation to internal and external space as well as not having a significant detrimental impact on existing neighbouring occupiers in relation to noise and disturbance. It would therefore accord with Policies CS11 and CS14 of the CS and Policy DM23 of the Newcastle Upon Tyne Development and Allocations Plan 2015-2030, 2020 (DAP) which together, amongst other matters, requires development to provide a good standard of residential amenity for existing and future occupants of land and dwellings. For the same reasons, the development would also accord with the SPD and aspirations of the Framework in this regard.

Cycle parking and refuse storage

16. Cycle parking and refuse storage is proposed to the rear of the property within the yard area, and I am satisfied given the overall space that exists that appropriate provision can be provided to ensure waste storage is not stored outside of the property or on the highway and that bicycles would not need to be stored internally. I agree that the plans provided are not particularly helpful in demonstrating that waste storage could be manoeuvred when the cycle storage is in use. That said, I consider that a suitably worded planning condition requiring further details to be provided would ensure that not only suitable provision is provided at the site but that this is useable and accessible which I have attached.

17. For the above reasons, I conclude that safe, secure, and usable cycle parking and refuse storage to meet the operational needs of the proposed development could be resolved by way of a planning condition. It would therefore accord with Policies DM12 and DM34 of the DAP which together, amongst other matters, requires safe, secure, and usable cycle parking to be provided that satisfies its operational requirements as well as refuse storage and recycling provision to provide the necessary capacity needed by the development which can be adequately accessed. For the same reason, the development would also accord with the aspirations of the Framework in this regard.

Other Matters

18. I have reviewed all matters raised by the Council including third party representations as part of my decision and acknowledge the concerns regarding parking and traffic issues. However, as set out within the Officer's report, the property would not be entitled to any additional parking permits and therefore there would be no change to current parking arrangements. Consequently, it is considered that the proposal would not result in an adverse impact on the highway network in terms of increased traffic and lack of parking. Notwithstanding, one additional bedroom would not be likely to give rise to an unacceptable impact on the local road network or cause an unacceptable increase in additional traffic/parking stress.
19. Matters relating to financial gain has not affected my findings on the main issues.

Conditions

20. I have considered the Council's suggested planning conditions in light of the Framework and Planning Practice Guidance. As a result, I have amended these where necessary for clarity.
21. The standard time for commencement of development is necessary as well as a plans condition in the interests of certainty. Conditions relating to provision of cycle parking and refuse storage are necessary to ensure adequate facilities are provided and in the interests of the amenity of the surrounding area, promoting sustainable travel and highway safety.
22. A condition relating to sound attenuation of the property has been suggested by the Council although I do not find this necessary for the reasons given above and has therefore been omitted. The Officers' report refers to a condition ensuring that refuse would be kept outside of the refuse area, except on the day of collection although no formal condition has been suggested. Notwithstanding, it has been indicated that refuse would be stored within the external yard and further details would be provided as part of the condition attached relating to refuse provision. I therefore do not find it necessary to condition this.

Conclusion

23. For the above reasons and having had regard to the development plan as a whole, the appeal should be allowed.

N Teasdale

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development must be begun within three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Drawing No. TQRQM23132133303457; Proposed Ground Floor, First Floor and Second Floor.
- 3) The development shall not be brought into use until details of cycle parking have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented before the development is brought into use. Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be kept available for the parking of cycles at all times.
- 4) The development shall not be brought into use until details of refuse storage facilities and refuse storage plan for the development have been submitted to and approved in writing by the Local Planning Authority. The details are to include the location and design of the facilities and arrangement for the provision of the bins. The approved refuse storage facilities shall be implemented before the development is brought into use. Thereafter, the refuse storage facilities and refuse storage plan shall operate in accordance with the approved details.

End of schedule