



Appeal Decision

Site visit made on 18 December 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/C3105/W/23/3324180

67 Oxford Road, Banbury, Oxfordshire OX16 9AJ

- 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 Miss Chloe Waller against the decision of Cherwell District Council.
 - The application Ref 23/00867/F, dated 30 March 2023, was refused by notice dated 8 June 2023.
 - The development proposed is the conversion from 10-bed HMO to 12-bed HMO (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion from 10-bed HMO to 12-bed HMO (Sui Generis) at 67 Oxford Road, Banbury, Oxfordshire OX16 9AJ in accordance with the terms of the application, Ref 23/00867/F, dated 30 March 2023, subject to the conditions within the attached Schedule.

Applications for cost

2. An application for costs was made by Miss Chloe Waller against Cherwell District Council. This application is the subject of a separate Decision.

Procedural Preliminary Matters

3. The Council's reason refusal refers to Bedrooms 3 and 6. However, the Officer's Report refers to Bedrooms 4 and 6. Given that the proposal would not alter the layout of Bedroom 3, it is apparent that reference to Bedroom 3 within the reason for refusal is an error. The appellant's statement refers to all bedrooms rather than directly referencing bedroom numbers. I am therefore satisfied that no prejudice has arisen as a result of this error.
4. I note that internal works to the layout of the property have been carried out although the House of Multiple Occupancy (HMO) is not currently occupied. The layout differs from that detailed on the submitted drawings. For the avoidance of doubt, I shall make my decision against the plans submitted with the application, which were considered by the Council.
5. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issue

6. The main issue is whether suitable living conditions would be provided for future occupants of the development, with particular regard to outlook and natural light.

Reasons

7. The appeal site comprises a large semi-detached building fronting Oxford Road. Accommodation within the building is spread over three floors. The building is close to the neighbouring property at No 65 Oxford Road (No 65), which is a building of similar scale to the building at the site.
8. The proposal seeks to alter the layout of the building to increase the number of bedrooms within the HMO from 10 to 12 and includes the insertion of windows to the side elevation facing No 65. The reconfiguration of the layout would provide communal facilities comprising kitchens on each of the three floors.
9. The proposed 'Bedroom 4' would be positioned on the ground floor towards the rear of the building. The room would be provided with a large window to the side whilst a door and window on the rear elevation would be filled in. The window would be set away from the side boundary by a limited amount but would face a single-storey element to the rear of No 65. Given the small scale of No 65 in this position, the room would receive a sufficient amount of natural light and outlook.
10. 'Bedroom 6' would be located at first floor level within the rear outrigger, adjacent to the main part of the building. The room would have two small windows, which would face towards the upper part of a two-storey element to the rear of No 65. The windows would be positioned at a height approximately level with the eaves to the rear of No 65. Although the windows are small, the separation distance and the relative height of No 65 would allow a reasonable level of natural light to reach the windows and would provide an acceptable outlook for future occupants of the room.
11. Three kitchen rooms would be provided on each floor, which would increase the available facilities for occupants of the HMO. Each kitchen would have a window facing the side elevation of No 65. The outlook and amount of natural light received from the windows, in particular the ground and first floor kitchens, would be limited by the presence of No 65. However, the kitchens provide limited congregational space in addition to the cooking facilities and, given the large size of the majority of the bedrooms, the time spent by occupants within the kitchens would be limited. Although there would be a reasonable expectation of outlook from habitable rooms such as kitchens, the windows would provide a suitable outlook and adequate level of natural light for occupants of the HMO based on the circumstances of the property.
12. I conclude that the proposal would provide suitable living conditions for future occupants of the development. The scheme therefore accords with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Saved Policy C30 of the Cherwell Local Plan 1996, which collectively require that proposals should consider the amenity of both existing and future development, including matters of outlook and natural lighting and provide acceptable standards of amenity and the Framework, which requires development to achieve a high standard of amenity for existing and future users.

Other Matters

13. The Council has drawn my attention to the requirements for provision of windows within kitchens relating to permitted changes of use under Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst the provisions are noted, the requirements within this legislation are not applicable to this proposal. Nonetheless, I have considered that the proposal would provide adequate natural light for occupants of the HMO.
14. I note concerns have been raised in respect of the effect of the HMO on neighbouring residents, including children, in respect of noise and anti-social behaviour. The site has permission as a 10-bedroom HMO. The addition of two bedrooms would not result in a significant increase in activity over and above the existing situation. Furthermore, there is no substantive evidence before me to suggest that occupiers of this HMO have any greater likelihood of noise or antisocial behaviour than those occupying any other property. I noted during my visit that the property appeared to have been recently refurbished to a high standard and it would provide adequate shared facilities for future occupants.
15. An area for a bin store and car parking are shown on the submitted plans and conditions requiring full details of waste storage facilities and provision and retention of formal parking arrangements could be included. These would ensure appropriate provision in these regards.

Conditions

16. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
17. A condition is included to requiring details of the covered cycle parking and to ensure retention provision thereafter. This is required to encourage sustainable modes of transport and improve the sustainability of the development. Adequate parking, as set out in the submitted drawings, would be secured by condition in the interests of highway safety.
18. The provision of suitable bin storage facilities would be secured by condition in order to safeguard the living conditions of neighbouring residents in respect of reducing unneighbourly odours and pest control.
19. In order to provide for the safety and security of future occupants of the HMO, a condition is included to incorporate and retain Secured by Design measures.

Conclusion

20. The proposal would accord with the development plan as a whole and there are no material considerations, which would indicate that a decision should be made otherwise. For the reasons given above I conclude that the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not 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: 22-27_PL01 Rev A, 22-27_PL04 SB Rev C and 22-27_PL05 Rev B.
- 3) Prior to the first occupation of the development hereby permitted, details of the covered cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The covered cycle parking facilities shall be provided in accordance with the approved detail prior to first occupation and thereafter retained for the lifetime of the development.
- 4) The parking and manoeuvring areas detailed on approved plan 22-27_PL01 Rev A shall be kept unobstructed except for the parking and manoeuvring of vehicles and shall be retained for the lifetime of the development.
- 5) Prior to the first occupation of the development hereby permitted, details of the bin storage facilities shall be submitted to and approved in writing by the local planning authority. The bin storage facilities shall be provided in accordance with the approved detail prior to first occupation and thereafter retained for the lifetime of the development.
- 6) Prior to the first occupation of the development hereby permitted, details of how Secured by Design measures have been incorporated into the development have been submitted to and approved in writing by the local planning authority. For the avoidance of doubt the details of how the scheme accords with the secure by design principles shall include: details of all bedroom doors being certified to PAS24, with a door viewer installed; details of a secure postal strategy; and details of a visitor notification system (doorbell) for each bedroom. The Secured by Design measures shall be implemented in accordance with the approved detail and be retained and maintained in perpetuity.

End of Schedule