



Appeal Decision

Site visit made on 10 January 2024

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2024

Appeal Ref: APP/R3705/W/23/3323164

Heath House, 27 Birmingham Road, Whitacre Heath, Warwickshire B46 2ET

- 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 Mr Ian Watts, of Space M Studio, against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2022/0353, dated 5 July 2022, was refused by notice dated 6 December 2022.
 - The development proposed is Change of use from C3 Dwellinghouse to 'Sui generis' (Houses in multiple occupation).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from C3 Dwellinghouse to 'Sui generis' (Houses in multiple occupation) at Heath House, 27 Birmingham Road, Whitacre Heath, B46 2ET, in accordance with the terms of the application, Ref PAP/2022/0353, dated 5 July 2022, subject to the conditions set out in the attached schedule to this decision.

Applications for Costs

2. An application for costs was made by Mr Ian Watts, of Space M Studio, against North Warwickshire Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issue

4. 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 regard to noise and disturbance.

Reasons

5. Heath House is a large, detached three-storey building set within a ribbon of development along Birmingham Road in the settlement of Whitacre Heath. The property has an attractive appearance, set within a spacious plot. The proposed

- development would change the use of the premises from a residential dwelling to a nine-bedroom house in multiple occupation (HMO).
6. The property shares its vehicle access with 29 Birmingham Road (No 29), which is also in the appellant's ownership. The two properties have car parking areas on the site frontage for a number of vehicles. A proposed car parking plan has been submitted, which shows seven spaces at the front and two spaces at the rear.
 7. The Council considers that, due to the limited number of services and facilities within the village, along with the infrequent bus service, future occupants would be reliant on private transport. On this basis it is suggested that the proposal would lead to increased vehicular activity at the property which would result in associated disturbance and inconvenience to neighbouring occupiers.
 8. My attention has been drawn to previous incidents at the property and its occupation as an HMO for eight occupants. In particular, a number of representations, including those by Nether Whitacre Parish Council (Parish Council), have highlighted noise and disturbance from various sources during its occupation, including car doors opening and closing and noise from motorbikes and car engines. There is also concern that nine bedrooms could result in 18 occupants, which would further increase noise and disturbance.
 9. The main parties accept that the existing dwelling 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 three and six unrelated individuals sharing basic amenities. This represents a fallback position for which there is a greater than theoretical possibility on the basis that the appellant has indicated that the building has been used for similar purposes previously and works are being carried out to improve the efficiency of the building and provide additional facilities. I afford this fallback position significant weight.
 10. The appeal property is detached and there is a good degree of separation between neighbouring properties, including No 29, due to the linear built form of properties along the road, which are all set within spacious plots. Furthermore, the generous size of Heath House, which includes a number of large rooms, occupied as a family home or as a C4 HMO accommodating six unrelated individuals, would also result in a large degree of daily activity throughout the day and at night. Additionally, the road is relatively busy and a reasonable amount of activity during both the day and night can be expected.
 11. Therefore, in the context of the site and its surroundings, the increased comings and goings of three additional occupants, particularly from the use of motor vehicles at the property, would not be readily discernible. Nevertheless, a condition which restricts the occupation of the building to no more than nine people is reasonable and necessary in the context of the location of the appeal site and the generous size of the building.
 12. Taking all the above into consideration, there is no substantive evidence before me to show that the proposed use of the property as a nine-bedroom HMO would significantly increase the level of activity, noise, or disturbance to the detriment of the living conditions of neighbouring occupiers.

13. For the above reasons, the proposed development would not cause unacceptable harm to the living conditions of the occupiers of nearby properties, with regard to noise and disturbance. As such, the proposed development accords with Policy LP29(9) of the North Warwickshire Local Plan 2021, which seeks the protection of quality of life and development that avoids unacceptable impacts upon neighbouring amenities through noise pollution.

Other Matters

14. The Parish Council and a number of interested parties have objected to the proposal, which in addition to the main issue, includes concerns relating to the adequacy or not of the proposed parking arrangements within the site for the proposal and the adjacent property, No 29. There are also concerns about the suitability of the proposal in terms of its location near to services, amenities, and public transport opportunities, due to its rural location. Other highway and pedestrian safety matters have also been cited as concerns.
15. A series of other objections have been raised concerning the use of the property and anti-social behaviour, the effect of the car parking on protected trees, unsuitable waste storage bin arrangements, water, drainage and flooding, and whether adequate bathroom and kitchen facilities are proposed, and other matters.
16. These factors are not in dispute between the main parties and were addressed in the Council's Planning Committee Report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Given my findings above, and the suggested conditions by the Council, I have found no justification to dismiss the appeal.

Conditions

17. The Council has suggested several conditions, some of which I have amended for the sake of clarity and precision. I have also had regard to the Framework and the Planning Practice Guidance. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty.
18. To ensure that suitable surfacing for the parking spaces is provided, I have included a condition that secures these details prior to the occupation of the building to ensure suitable parking arrangements are provided. Likewise, a condition which ensures that suitable pedestrian visibility splays are provided and retained free from obstruction is necessary in the interests of highway safety. In the interests of sustainable travel, I have also included a condition which secures on-site cycle storage provision.

Conclusion

19. The proposed development would accord with the development plan, and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, numbered; 1745/01; 1745/02 and 22130/03.
- 3) The development hereby permitted shall not be brought into use, until details of the surface treatment for the car parking spaces have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
- 4) The development hereby permitted shall not be brought into use until pedestrian visibility splays measuring 2.4 by 2.4 metres have been provided on either side of the vehicular access to the site. These splays shall be left unobstructed at all times.
- 5) The development hereby permitted shall not be occupied until a secure, covered bicycle storage area has been provided in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved bicycle storage area shall be retained and made available for the lifetime of the development.
- 6) The development hereby permitted shall not be occupied by more than nine persons at any one time.