



Appeal Decision

Site visit made on 11 February 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/W4515/W/23/3333990

98 Richardson Street, Wallsend, North Tyneside NE28 7PR

- 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 Adrian Andrici (DDB Property) against the decision of North Tyneside Metropolitan Borough Council.
 - The application Ref 23/01233/FUL, dated 11 September 2023, was refused by notice dated 18 October 2023.
 - The development proposed is described as retrospective change of use from residential dwellinghouse (Class C3) to short-term letting rooms with shared facilities (sui generis).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant states that the appeal property has been used for short-term holiday letting rooms since July 2023. Prior to that, the property was a six-bedroom dwellinghouse. I am therefore considering the appeal proposal on a retrospective basis.
3. The National Planning Policy Framework was amended on 19 December 2023 (the Framework). However, it has not been necessary for me to seek comments from the main parties about the implications of the updated Framework. This is because there are no material changes in respect of the main issue below.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupiers of surrounding properties in respect of noise and disturbance and the perception of crime, anti-social behaviour, and disturbance.

Reasons

5. The appeal is submitted based on retrospective development. In this context, I have carefully considered all consultation responses and the representations made by residents who occupy nearby dwellinghouses. In other words, and while the appellant has indicated that he intends to operate the short-term letting rooms based on specific rules/management practices, the appeal development has essentially already benefited from a trial run.
6. The application site is a terraced property positioned at the junction of Richardson Street and Cumberland Street. The submitted plans show six

bedrooms and shared kitchen and living room facilities. The property is advertised on several on-line web sites. There is a rear yard and letting marketing particulars indicate *'smoking only at the back of the property in the back garden'*.

7. The appellant's other rules/management practices include a minimum age of 25; no parties; quiet hours between 8pm and 8am; an agreement with a local security company to provide customer support 24/7 for emergencies and/or anti-social behaviour; a minimum stay of five nights; and a check in time of no later than 8pm. The appellant states that many of these management practices are already implemented at the site. He also states that *'I have a manager that will attend the property on a daily basis'* and *'I am checking each guest at the time of check in on the CCTV and on the video doorbell'*.
8. I afford significant weight to the considerable representations made by the occupiers of surrounding dwellinghouses in the locality. There is consistency to the comments made by residents who refer to noise and disturbance from the comings and goings of significant numbers of guests occupying the property, as well as from associated take-away deliveries and taxi pick up and drop offs. Comments are made about some guests checking in very late at night and despite the appellant indicating that this should not happen. I appreciate that such comings and goings would also arise from the possible occupation of the property as a single dwellinghouse, it is unlikely that such activities would be as frequent from one family.
9. Furthermore, the evidence is that complaints have been made to both the Police and the Council's Environmental Health service in respect of noise, disturbance, and some anti-social activities. While the appellant raises concern that he does not have information about such complaints or the complainants, I have no reason to doubt that such complaints were made. Furthermore, it is of course possible that they were considered on an anonymous basis.
10. The evidence is that anti social activities have included fighting and drinking in the street and drug taking. The appellant does not dispute that some unacceptable incidents have occurred in association with use of the property as a letting room business, including one in July 2023 and one in August 2023. Despite the appellant's best efforts to try to discourage parties and to only allow residents over the age of 25, the evidence indicates that this has not always been successful. It is noteworthy that the Council *states 'the Vrbo booking website had a minimum age to rent of 23 when checked by officers in October'* and this has not been disputed by the appellant.
11. On the evidence before me, I am not persuaded that the appellant's rules/management practices have been or would be enforceable. There is nothing to suggest that it would not be possible to occupy the property on a group basis by individually booking rooms. In other words, I am not convinced that the appellant could fully rule out or prohibit friendship groups from attending the property. Hence, further parties and hence disturbance to residents remains a distinct possibility.
12. In addition to the above, it is noteworthy that smoking can only take place outside the property and in the rear yard. Given this, coupled with the likely greater number of people occupying the property when compared to use as a single dwellinghouse, I find that there is potential for large groups of people to use and/or socialise in the rear yard area. While the yard is enclosed by solid

- boundary treatment, there is potential for unacceptable levels of noise, disturbance and smoking fumes to cause harm to the occupiers of nearby properties, particularly during the evening when surrounding residents should expect a reasonable degree of peace and quiet, and in the summer months when they are more likely to want to have upper floor windows open.
13. Given the unacceptable incidents that have taken place already from the property, including some anti-social activity, it is not surprising that some residents have expressed anxiety and fear about the possibility of further noise, disturbance or anti-social activities taking place. This is in the context that the appellant says that many of the management practises are already in place. On the evidence that is before me, it cannot reasonably be said that they have been effective.
 14. I afford weight to the above perceived fears particularly as the rooms are let out on a short-term basis. Indeed, different people occupy the property from one week to the next. In other words, I share the concerns raised by some residents about the effect of the development on the sense of community in the area, in so far that they do not know who is occupying the property and whether such occupants will fully abide by rules/management practices. In this regard, I find that the perceived fears are well founded: there is indeed a difference between permanent occupation of the property as a single dwellinghouse or a house in multiple occupation (HMO), and occupation on a much more transitory basis.
 15. I have considered whether it would be possible to impose a planning condition that ensures acceptable management and occupation of the short-term letting rooms and in such a way that the development does not cause harm to the living conditions of the occupiers of neighbouring properties. For the reasons outlined above, I do not find that any such planning condition would be capable of being enforced by the local planning authority, or that the appellant would be able to ensure that all visitors accord with the rules/management practices. Indeed, the evidence indicates that the latter has not been possible so far.
 16. While the evidence is that a security company is already in place, this essentially operates on a reactive basis. The evidence indicates that residents would have to resort to contacting the Police and/or the Council's Environmental Service if there were further unacceptable incidents arising from use of the property as short-term letting rooms. It is not reasonable for residents to have to operate in this way.
 17. While a tourist type facility in this area is not unacceptable in land use principle terms, the lack of any permanent on-site management personnel, and the incidents that have taken place to date, leads me to conclude that there is likely scope for rules/management practices to be ignored or broken. On the evidence that is before me, I am not persuaded that unacceptable incidents would not occur again to the detriment of the living conditions of the occupiers of neighbouring residents.
 18. The absence of any permanent on-site management presence has, in my judgement, exacerbated the perceived fears of residents. The appellant states that someone from the management company attends the property each day. There is a lack of clarity about this arrangement. Moreover, this is not the same as a permanent on-site management presence. Furthermore, and, in any event, there is a likely potential for significant numbers of people to occupy the

property (including the rear yard) at any one time when compared to its use as a single dwellinghouse. I therefore find that the intensification of the use of the property is unacceptable for neighbouring residents from an associated noise and disturbance point of view.

19. For the collective reasons outlined above, I therefore conclude that the development does not accord with the amenity requirements of policies S1.4, DM5.19 and DM6.1 of the North Tyneside Local Plan 2017 and paragraphs 96, 135(f) and 191 of the Framework. Even if I were to reach the view that it would be possible (i.e., enforceable) to address some of the noise and disturbance issues by imposing a condition in respect of a limit on the number of residents occupying the property (i.e., no more than six as agreed by the appellant), this would not overcome or alter my concern about the potential for or the perception of crime, anti-social behaviour, and disturbance.

Other Considerations

20. I acknowledge the economic and tourism benefits associated with the development. These are matters to which I afford positive weight in the planning balance.
21. The appellant states that I should afford weight to the fact that the property could be used, without the need for separate planning permission, as a use class C4 HMO and that this is not very different to the appeal development. Indeed, the appellant states that the property had an HMO license (19/00013/MULTI) when he purchased the property and that five people were living in it. I do not know if the appellant would seek to use the property as a C4 HMO if this appeal were to be dismissed. However, in planning terms, use of the property as a C4 HMO would be restricted to no more than six residents. The evidence is that the appeal development provides occupation for significantly more than six residents.
22. I have considered whether the appellant's agreement to the imposition of a condition which limits occupation of the property to no more than six residents and whether this would suitably address the harm identified in respect of my conclusion on the main. I do not find that it would. The appeal property can accommodate more than six residents and so I have my doubts about the enforceability of such a condition. Furthermore, and, in any event, occupation of the property as a C4 HMO would very likely result in less transitory occupants who would therefore likely be perceived by neighbouring residents, in relative terms, as being part of the local community. The appeal development and a use class C4 HMO are not directly analogous in this case. I do not therefore afford the C4 HMO 'fall-back' position significant weight in decision making terms.
23. The appellant has indicated that a condition restricting occupation of the property to no more than six residents could also include a requirement that all visitors are provided with written information, at the time of booking, setting out that the site is located within a residential area, and that a detailed management plan is submitted to the local planning authority for written approval. I do not know what would be included in the suggested management plan over and above what has already been outlined by the appellant. This is a critical matter in this case. Any such details would need to be considered at planning application stage. The evidence is that there have been problems associated with the use of the property as short-term letting rooms and this is

despite occupants being aware that they are residing in a residential area. I do not consider that a communication to guests about the site being in a residential area would be sufficient to address my conclusion on the main issue.

24. The other considerations raised do not carry sufficient weight to alter or outweigh my conclusion on the main issue.

Conclusion

25. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

D Hartley

INSPECTOR