



Appeal Decision

Site visit made on 27 February 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 8th March 2024

Appeal Ref: APP/Y0435/W/23/3329546

**184 Bradwell Common Boulevard, Bradwell Common, Milton Keynes
MK13 8AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Egor Aboymov against the decision of Milton Keynes Council.
 - The application Ref is 23/01270/COU.
 - The development proposed is change of use from class C3 (residential) to 5-bedroom class C4 (HMO).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development stated above is taken from the appeal form rather than the application form as it more clearly describes the proposal.
3. During the appeal, the Government published an updated version of the National Planning Policy Framework (the Framework). However, as the Framework's policy content insofar as it relates to the main issue has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issue

4. The main issue is the effect of the proposal on the character of the area with particular regard to the mix and balance of the community.

Reasons

5. Bradwell Common Boulevard lies within a mainly residential area with two and three storey terraces, semi-detached and link attached properties predominant. The appeal site is not subject to any heritage designations. The Council has confirmed that the area is covered by an Article 4 Direction removing permitted development rights that allow the change of use from a dwellinghouse to a small HMO.
6. The proposal is to change the use of the property from a dwelling to a small HMO. No external alterations to the property are proposed. The existing private rear garden would provide a shared garden space for future occupants.

7. Policy HN7 of the Plan:MK 2016 – 2031 Adopted March 2019 (Plan:MK) states that in order to maintain mixed, balanced, sustainable and inclusive communities, proposals for HMOs will be approved where they would not create an over concentration of such accommodation resulting in an imbalance within local communities or other significant adverse impacts. The Houses in Multiple Occupation Supplementary Planning Document Adopted April 2012 (SPD), is referred to under Policy HN7 of Plan:MK. Whilst the SPD refers to previous now superseded policies, it is still a material consideration.
8. The SPD highlights that an over concentration of any one particular type of housing or household can lead to wider effects on the character of an area and can give rise to a lack of community integration and cohesion. The guidance set out in the SPD seeks to maintain a mix of dwelling types in areas of high demand for HMOs, whilst not reducing the overall supply of HMOs across Milton Keynes.
9. The SPD provides guidance regarding the determination of applications for HMOs. The SPD states that in order to ensure that a proposal would not lead to an unacceptable concentration of HMOs within an area, the number of HMOs should not exceed 35% of the total number of properties within a 100 metre diameter buffer of the appeal property. The SPD goes on to state that a non-sandwiching approach will also be applied to prevent any one property (whether it is an HMO or not) from being sandwiched between two HMOs, in order to prevent an over concentration at the localised level.
10. The appellant does not dispute the Council's figures which identify that there are 30 dwellings within a radius of 50m of the appeal property including 6 licensed HMOs with 5 bedrooms each. Consequently, when following the methodology set out in the SPD, the Council state that HMOs make up 50% of the existing properties, within the identified search area.
11. However, the appellant contends that only one of the licensed HMOs, 188 Bradwell Common Boulevard, has planning permission as a result of it being allowed on appeal in 2007. They state that the other 5 HMOs identified do not have planning permission or a lawful development certificate in place to establish an HMO use and therefore they should not be included in the calculations.
12. The SPD states that HMOs that are licensed, permitted and those that do not require a license or permission will be included, in order to calculate the concentration figure. The SPD guidance therefore advises that the other 5 HMOs should be included in the calculation. Given that they are present and do contribute to the housing mix and I have no evidence to suggest that they are not being used as HMOs, I consider this to be a reasonable approach. The proposal would therefore add to the concentration of HMOs within the surrounding area, which already exceeds the 35% figure provided for in the SPD.
13. The appeal property is already sandwiched between HMOs and therefore the existing situation is already in conflict with the SPD guidance. If No 184 were an HMO, the resultant situation would conflict with the SPD on these grounds also. Nevertheless, given that 182, 186 and 188 Bradwell Common Boulevard are all licensed HMOs, by allowing the change of use of No 184 it would intensify the concentration of HMOs at the localised level as it would result in a row of four HMOs adjacent to one another.

14. Whilst I note that the SPD is guidance only and does not form part of the development plan, it does attract significant weight as a material consideration. The conflict with the SPD supports the argument that the proposal would exacerbate the existing concentration of HMOs within the surrounding area of the appeal site.
15. I therefore find that the proposal would be harmful to the character of the area with particular regard to the mix and balance of the community. It would be contrary to Policies HN7 and D1 of Plan:MK which seek, amongst other things, that development proposals respond appropriately to the surrounding context and maintain mixed, balanced, sustainable and inclusive communities. The proposal would also be contrary to the SPD, the aims of which are set out above.

Other Matters

16. The proposal would provide shared accommodation that may be more affordable than other housing options. The SPD recognises that HMOs are an important part of the Borough's housing stock and that many people rely on them to meet their housing requirements. This is consistent with the aims of the Framework and is a benefit of the scheme attracting moderate weight. It does not, however, outweigh the harm I have found to the character of the area with particular regard to the mix and balance of the community.
17. The appellant asserts that the occupancy levels would be less when compared to that of a family dwelling occupied by a larger family, and that therefore the effects on the living conditions of the neighbouring occupiers would not be unacceptable. Regarding noise, the appellant states that a noise assessment setting out mitigation measures could be required by condition to ensure no harm arises in this regard. It is also stated that sufficient bin storage would be provided within the appeal site. Even if I were to agree, a lack of harm in these respects would be a neutral consideration that would weigh neither for, nor against the proposal.
18. I have had regard to the fact that planning permission has not been pursued in respect of other existing licensed HMOs and that the appellant has sought to gain the relevant planning permission prior to undertaking the proposed change of use. Whilst I am sympathetic to the appellants circumstances in this regard, this does not outweigh the harm that I have set out above.

Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

G Dring

INSPECTOR