



# Appeal Decision

Site visit made on 23 January 2024

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

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**Appeal Ref: APP/U4610/W/23/3324268**

**1 Squires Way, Coventry CV4 7EJ**

- 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 Keung Kwok Yiu Keung against the decision of Coventry City Council.
  - The application Ref is FUL/2022/2993, dated 21 October 2022, and was refused by notice dated 16 February 2023.
  - The development is change of use to 2 cluster flats (9 Bedrooms).
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## Decision

1. The appeal is allowed and planning permission is granted for change of use to 2 cluster flats (9 Bedrooms) at 1 Squires Way, Coventry CV4 7EJ in accordance with the terms of the application, Ref FUL/2022/2993, dated 21 October 2022 subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: Existing and proposed details Project No. 8051 DWG No. 12.
  - 2) The development hereby permitted shall be occupied by no more than 9 permanent residents at any time.

## Preliminary Matters

2. The decision notice and the appeal form describe the development as the 'retention of change of use to 2 cluster flats (9 Bedrooms)' which is different to that on the application form. Given that this description has been used by both parties within the submitted evidence and because it more accurately describes the development applied for, I have used this description of development in my decision. However, I have removed the term 'retention of' from the description of development as this is not an act of development. Accordingly, I am satisfied that the parties would not be prejudiced by this.
3. The development has already taken place and appears to be in accordance with the plans submitted and therefore I have determined the appeal on this basis.
4. Following the issuing of the council's decision notice the National Planning Policy Framework (the Framework) has been updated. As the updates do not fundamentally alter that part referred to by the parties, it has not been necessary to consult them further.

## **Main Issue**

5. The main issue is the effect of the development upon the living conditions of the surrounding occupiers with regard to noise and disturbance.

## **Reasons**

6. The property has planning permission to be used as a 7-bedroom House in Multiple Occupation (HMO) but the appellant states that the property has since been used as two cluster flats with 9-bedrooms in total.
7. 1 Squires Way (No 1) is a large, detached dwelling located close to the junction between De Montfort Way and Squires Way which is a cul-de-sac. The prevailing character of Squires Way is large, detached houses, however close to the site is a large block of flats as well as a shopping centre. Beyond this there is the University of Warwick Campus which incorporates a large number of substantially sized buildings. The site is located in a transitional area where the uses associated with the university begin to dominate the area. It was evident during the site visit that students travel to and live in the area and taking into consideration the above conclusions, I do not consider the house to be situated within a typical quiet suburban cul-de-sac.
8. The council state that an Article 4 Direction has been introduced which restricts the change of use of dwellings (Use Class C3) to small HMO's (Use Class C4). It states that the purpose of the Article 4 Direction is to try and control the proliferation of HMO's and the impact of and problems associated with high levels of multi-occupancy. However, this development does not introduce a new HMO into the area.
9. The use of the building as a HMO has already been established and as such a certain level of movements from residents and visitors is to be expected and it was determined that the permitted use would not be harmful to the neighbouring occupants' living conditions. The development adds two bedrooms to the building which allows for two additional people to live there.
10. Whilst the building has not been extended to accommodate these additional rooms, the property is very large, and the internal space shown on the submitted plans is sufficient to provide an appropriate living environment for the occupiers with suitably sized private and shared internal living accommodation. This, alongside the modestly sized garden ensures that the use is not intensive for a property of this size.
11. The comings and goings from a HMO may differ in some respects from a typical family home. However, the building is already a HMO and neighbouring occupiers would likely be accustomed to activity associated with that use. Additionally, movements to and from the property would be fleeting with noise only created for a limited time.
12. Given the distance between the front door of No 1 and the neighbouring detached dwellings and because the house is located at the end of the road, those entering or exiting the house do so a reasonable distance from the neighbouring properties. This would limit the noise and disturbance heard by the neighbouring occupiers. Two additional vehicles parked nearby could cause some disruption to the neighbouring occupiers, especially if it occurred at night. However, the house is in a residential area where vehicles coming and going is likely to be a common occurrence.

13. Even if the occupiers of the HMO worked or socialised during the evenings with comings and goings occurring at night, this does not necessarily infer that there would be an unacceptable impact in terms of noise and disturbance to other nearby residents from both pedestrians and vehicles visiting the property. The issues raised are not predicated on the use of the building as a HMO but rather a matter of individual behaviour.
14. There was a large bin storage area to the front of the dwelling and the front of the building was well maintained, and no rubbish or waste was left outside of the property or the bin storage area. Whilst my site visit was only a snapshot in time, given the size of this bin storage area, facilities have been provided for the proper management of waste for the property. The HMO Enforcement Team also noted that within 5 years the council had received no complaints regarding waste management at this property. Whether or not this is suitably maintained is a matter that relates to the individual behaviour of those living in the property rather than the building being used as a HMO.
15. Policy AC3 of the Coventry Local Plan (LP) requires the provision of car parking to be assessed on the basis of the Parking Standards set out in Appendix 5 of the LP. The proposal would add 2 additional bedrooms which would require a maximum of 2 additional on-site parking spaces. However, the Parking Standards does recognise that in exceptional circumstances there may be occasions when it could be appropriate to have a lower or higher level of parking depending on the specific details of the application.
16. The HMO was permitted with space for 2 cars to be parked off the street. I am mindful that the Local Highway Authority has raised no objections to the development. A Parking Survey was submitted with the appeal which identified the parking capacity in the area and found there was capacity locally to accommodate the needs of the occupiers. Additionally, it identified that the site was located a short distance from the university campus with good walking and bus routes nearby. Given the intended use and the sustainable location of the site it appears unlikely that the occupiers would be highly reliant on private car use.
17. There are also parking restrictions at specific times on the surrounding roads. During my site visit there were very few cars parked on the surrounding roads and whilst this was a snapshot in time it is evident that the parking restrictions were effective, and this view is supported by the Parking Survey. The parking restrictions are generally during working hours and outside of these hours when the occupiers would be more likely to be at home and need to park a vehicle there would be sufficient parking spaces close to the site. As a result, the occupiers would be able to park nearby without causing disruption to the surrounding occupants.
18. Consequently, in view of the scale of development and the evidence before me, I consider that the extra demand for on-street parking generated by the development is relatively small in the context of the overall supply and availability of parking in the area. Therefore, I consider that the effect is likely to be only marginal and certainly not severe, the test set out in paragraph 115 of the Framework for preventing development on highway grounds. Accordingly, I am satisfied that this provides the exceptional circumstances to have a lower level of parking in this instance.

19. Several appeal decisions have been referred to by both parties. The appeal sites are located on different roads and for differing quantum's of development. I have limited information about each of those schemes, but the size and location of a property can have a substantive effect upon the impact of a scheme on neighbouring occupiers' living conditions. Furthermore, each case must be assessed on its own merits.
20. Therefore, the development does not harm the living conditions of the neighbouring occupiers. Consequently, the development accords with Policies H10, H11, DE1 and AC3 of the LP. These policies seek, amongst other matters, to ensure that HMO's do not materially harm the amenities of occupiers of nearby properties (including the provision of suitable parking provisions). In addition, it would accord with the Framework that development should seek to create places that promote health and well-being, with a high standard of amenity for existing and future users (paragraph 135) and does not result in an unacceptable impact on highway safety (paragraph 115).

### **Conditions**

21. The development has already taken place and as such the statutory commencement condition is not necessary. However, a condition requiring the development is carried out in accordance with the plans is necessary in the interest of certainty.
22. A condition restricting the number of occupiers is necessary in the interest of the living conditions of the occupants of the property as well as the neighbouring occupiers.
23. A condition to provide cycle parking facilities is not necessary as this has already been provided in the garden as shown on the existing plans for the site.
24. Substantive evidence has not been provided to identify that the site is in an area where air quality is an issue that would necessitate a condition controlling the type of boiler that should be installed. Accordingly, a condition doing so would not be necessary.
25. The Planning Practice Guidance states that decisions should avoid duplication of regulations from other regimes. Electric vehicle charging points are now part of the updated Building Regulations approval and as such it is not necessary to include a condition requiring them.

### **Conclusion**

26. The development accords with the development plan as a whole and the other material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

*G Sibley*

INSPECTOR