



Appeal Decision

Site visit made on 14 May 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/B0230/W/23/3331053

95 Stockingstone Road, Luton LU2 7NE

- 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 Andrew Green against the decision of the Council of the Borough of Luton.
 - The application Ref is 23/00790/COU.
 - The development proposed is described as change of use of 6 person House in Multiple Occupation (HMO) Class C4 to an 8 person large HMO (Sui-Generis).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of 6 person House in Multiple Occupation (HMO) Class C4 to an 8 person large HMO (Sui-Generis) at 95 Stockingstone Road, Luton, LU2 7NE in accordance with the terms of the application, Ref 23/00790/COU, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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: 01, 02, 03, 04, 05, 06.
 - 3) No more than 8 residents shall occupy the House in Multiple Occupation (HMO) hereby permitted at any one time.

Preliminary Matters

2. The description of development in the header and decision above is taken from the appeal form and the Council's decision notice. It is different to that on the application form but it is more meaningful as it explains the abbreviation HMO. No injustice would be caused by basing my assessment on the above description of development.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. However, the parts of the Framework most relevant to the determination of this appeal remain unaltered and so there is no need to invite the parties' comments on the revisions. I have taken the Framework into account in my assessment of the appeal.

Main Issues

4. The main issues are the effect of the development on (i) the character and appearance of the area, and (ii) the living conditions of occupiers of residences at 93a and 97 Stockingstone Road (Nos 93a and 97) in terms of noise.

Reasons

Character and appearance

5. The appeal property is a semi-detached house, currently used as a 6 person HMO and with extensions to the side, to the rear and to the roof. It is on a busy urban road where most properties are dwellings, although with occasional commercial units.
6. No changes are proposed that would affect the external appearance of the house. Moreover, it would remain as a residence, albeit with more occupants compared to the current situation. To my mind, the presence of 2 extra residents and associated activities such as trips to and from the site would not change the fundamental nature of the property. Even if any additional activity is noticed, this would be domestic in nature and so sympathetic to the current residential use of the property and the predominant character of the area.
7. The proposal would result in a need for a larger recycled waste bin compared to the current HMO use as well as a general waste bin of the same size. The side extension means that there is no longer external access from the front to the rear garden of the property and so it is likely bins would be kept on the open frontage of the site. However, the bins for the current HMO already have an effect on the street scene. The storage of a slightly larger recycled waste bin would make no meaningful difference to the appearance of the appeal property when seen from the road. Consequently, the bins associated with the proposal would not harm the character of the locality.
8. For these reasons, I conclude the development would cause no harm to the character and appearance of the area. In these regards, it would accord with policies LLP1, LLP17 and LLP25 of the Luton Local Plan 2017 (LP). Amongst other things, these require development, including HMO proposals, to respond to and preserve the character of an area.

Living conditions

9. No 93a is a residential flat above a beauty salon and is attached to the appeal property. No 97 is a dwelling on the other side with a small gap between the flank walls. The Council is concerned that the living conditions at these properties would be adversely affected by noise generated by the 2 extra residents as a result of the proposal and by a group of 8 unconnected individuals living at the same house.
10. I would anticipate the existing HMO already generates a level of residential activity with associated noise. There is no evidence to indicate that such activity, including that associated with vehicular usage, unacceptably disturbs the occupiers of Nos 93a and 97. Also, it is reasonable to expect the 2 additional residents as a result of the proposal would carry out similar activities to those that already take place at the property. Whereas the development would lead to a greater level of occupancy plus more trips to and from the site, it does not follow that this would lead to an increase in the effect of noise at the adjoining properties. Indeed, given the fairly constant and noticeable sound of traffic on Stockingstone Road, I would envisage that noise associated with the proposal would not be significantly disruptive to residents of nearby dwellings.

11. For these reasons, I conclude the development would not cause harm to the living conditions of the occupants of Nos 93a and 97 by reason of noise. In these regards, it would accord with LP policy LLP25, which looks to deliver housing so as to minimise noise.

Conditions

12. I have had regard to the list of conditions suggested by the Council in light of the advice on conditions provided in the Framework. In the interests of clarity, I include a condition that lists the approved plans. There is no need for this condition to refer to the other documents provided with the planning application such as the design and access statement and planning policy statement. Also, I impose a condition restricting the number of residents as there is no evidence before me to show a higher level of occupancy would be acceptable under LP policy LLP17 on HMO's.
13. The Council suggest a condition that would remove permitted development rights that allow alterations to the appeal property. However, no explanation has been provided on why this is necessary to make the appeal development acceptable in planning terms. Also, I am unsure on the need for a condition that requires a management plan to be approved and implemented, particularly as this is not referred to as a necessity within LP policy LLP17. In light of my view on the effect of bins on the character and appearance of the area, I see no need for the suggested condition on the storage of waste. Therefore, these conditions have not been imposed.
14. There is a request from a consultee for a condition that requires a noise assessment to be carried out and details of sound insulation to be approved and provided. This relates to the effect of traffic noise on the living conditions at the appeal property. However, regardless as to whether the appeal development is allowed and implemented, the property could be used as a HMO. I consider such a condition is unnecessary in this instance as the scheme would not result in worse living conditions in terms of noise compared to the existing situation. Consequently, I have not included this suggested condition.
15. The Highway Engineering Services consultation response suggests that secure cycle storage should be provided to meet minimum requirements as set out in the LP. However, no condition to address this issue is included on the Council's suggested list. Moreover, I am referred to no policy or guidance that sets out cycle storage requirements for HMO's. As such, the evidence fails to demonstrate a condition on cycle storage is required.

Conclusion

16. For the reasons given above, I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR