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# Appeal Decision

Site visit made on 10 May 2024

**by A M Nilsson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 June 2024**

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**Appeal Ref: APP/K0235/W/23/3331551**

**12 Potter Way, Bedford MK42 9RG**

- 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 Potter House Supported Housing Ltd against the decision of Bedford Borough Council.
  - The application Ref is 23/00687/COU.
  - The development proposed is the change of use from single family semi-detached dwelling to a 3-bedroom HMO and associated works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council have commented that it would appear from the information submitted that the proposed use could fall under use class C3(b) or C2 depending on the level of care provided, and that this could be confirmed by way of an application for a lawful development certificate. The Council, however, confirm that for the purposes of this appeal, the development being considered is for HMO use.
3. A use under Class C2 (Residential Institution) is for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwellinghouses)) for example a care home.
4. A use under Class C3(b) is a dwellinghouse for not more than six residents living together as a single household where care is provided for residents. A C3(b) use would normally not require planning permission where the property is currently in C3 use. I have however considered the appeal based on the development proposed, that being a house in multiple occupation (HMO). There are other mechanisms available to the appellant to establish a lawful use should they consider this to be the case.
5. The Council's first reason for refusal concerns the size of bedroom 4. In response to this, the appellant has outlined their intention to use bedroom 4 as a communal office space and not as a separate bedroom. The appellant's statement contains an amended plan showing this.
6. As this is a minor amendment, and the Council's concerns on the original set of plans are clear in their evidence, I do not consider that their interests, nor those of any third parties, would be prejudiced if I take these amended plans into account.

7. Although the Council consider that the change is more than minor and should not be accepted as part of the appeal, they have commented that it would address their concerns regarding the size of the bedroom.
8. I shall therefore determine the appeal on the basis of the amended plan. It is necessary, however, for me to insert into the description of development reference to the proposed development being a 3-bedroom HMO. This is not a substantial change to the proposal and would not prejudice the interests of any parties.
9. The amended plan addresses the Council's concerns in relation to the size of bedroom 4. I have no reason to form a different view and will therefore determine the appeal having regard to the other three reasons for refusal.

## **Main Issues**

10. The main issues are 1) whether or not the proposed development would provide acceptable living conditions for future occupants of bedroom 1 in relation to the siting of refuse storage, 2) whether or not sufficient provision is made for vehicle and cycle parking, having regard to highway safety and sustainable travel, and 3) the effect of the proposed development on the living conditions of occupants of surrounding residential properties with regard to noise and disturbance.

## **Reasons**

### *Living conditions – future occupants*

11. The proposed plan shows that refuse storage containers would be stored in front of the window serving bedroom 1. The appellant suggests that the waste bins can easily be accommodated to the back of the property rather than under the window of bedroom 1 and considers this would address the Council's concerns.
12. From my observations on my site visit, and from the submitted evidence, there does not appear to be a link between the rear of the property and the street front. Therefore, it would not be permissible for refuse storage containers to be kept at the rear of the property and brought to the front for collection as is suggested.
13. In the proposed ground floor plan, the location of the refuse storage containers directly beneath the window of bedroom 1 would significantly deter occupants of that room from opening of windows due to odours from the refuse. This would be particularly inappropriate during warm weather when the desire to open windows would be at its greatest, at a time when odours from refuse is also typically exacerbated.
14. I acknowledge that this arrangement may occur for the dwellinghouse, however this was not the case at the time of my visit. Given the design of some of the surrounding properties, it appears also likely that bedroom 1 would previously have been a garage, and thus no such harmful impact would have occurred. In terms of the current proposal, bedrooms in HMOs are typically more frequently used given the unrelated nature of the occupants. Therefore, the impact on living conditions as it relates to the bedroom has greater significance.

15. The appellant suggests that refuse storage could be a condition on any granting of planning permission. Whilst such a condition is often imposed, from the proposed plans there appears to be limited availability elsewhere that would not require changes to the proposed plan.
16. I therefore conclude on this issue that the refuse storage arrangement would provide unacceptable living conditions for future occupants. The proposed development would therefore be contrary to Policies 29 and 32 of the Bedford Local Plan (2020) which require, amongst other things, that new developments make appropriate arrangements to integrate functional needs such as refuse/recycling storage.
17. It would also be contrary to Principle 4 of the Houses in Multiple Occupation Supplementary Planning Document (SPD) (2020) which requires that waste storage is well designed and appropriately located having regard to the amenity of HMO residents. The SPD also outlines how external waste storage areas should be located away from occupied rooms.

#### *Vehicle and Cycle Parking*

18. The proposed plans show two vehicles parked at the front of the property and a cycle storage unit. One of the parking spaces sits perpendicular with the front of the property. This space when occupied would restrict access to the front door of the property and access to the proposed cycle storage unit. Additionally, when a vehicle is parked in the space labelled 'Driveway 02' it would be extremely difficult, or at worst not possible, to manoeuvre a vehicle into the space.
19. The Council's Parking Standards for Sustainable Communities Supplementary Planning Document (SPD) (2014) outlines that applications for the development of, or conversion to, houses in multiple occupation will be considered on their merits. The more recent Houses in Multiple Occupation (SPD) (2020) outlines that for car parking, one vehicle space per bedroom plus 0.4 visitor spaces per bedroom should be provided.
20. For the reasons considered above, I find that whilst the proposed plans show that physically, two vehicles can be parked at the property, in order to allow for unobstructed access to the entrance and cycle parking, and due to manoeuvring limitations, in reality only one space could be reasonably accommodated at the property. This would therefore represent a notable shortfall from the amount required in the SPD.
21. The SPD acknowledges that a lower level of parking may be acceptable when, amongst other things, any potential parking impact on existing on-street parking is demonstrated to be acceptable. There is no substantive evidence to show that on-street parking may be an acceptable solution and I observed on my site visit that the roadway outside the property is quite narrow, and when combined with the position of accesses may restrict such availability. Furthermore, the appellant highlights that there would be visits by health workers and nurses. The impact from these visits, in terms of resulting parking demand, has not been adequately accounted for.
22. I acknowledge that there is public transport available in the wider area, and whilst this may be one reason to justify a lower parking provision than required

by the SPD there is limited information in terms of the frequency of such options to overcome the shortfall for this reason alone.

23. Therefore, based on the evidence before me, the scheme as currently proposed would not provide adequate vehicle and cycle parking in accordance with the SPD and it has not been demonstrated that the lower level of parking may be acceptable having regard to existing on-street parking.
24. I am not persuaded however that the parking implications would have an unacceptable impact on highway safety or result in a severe impact on the road network, as is required to be demonstrated to prevent development. I have considered the parking implications pertinent to other main issues below. I do however find that the vehicle parking and cycle parking arrangement as proposed would discourage sustainable travel choices.
25. The proposed development is therefore contrary to Policies 29 and 31 of the Bedford Local Plan (2020) in terms of ensuring that developments make appropriate provision for vehicle and cycle parking. It would also be contrary to Principle 3 of the Houses in Multiple Occupation (SPD) (2020) as outlined above.

*Living conditions – existing occupants*

26. The appeal property is located in a residential area. The Council consider that the increased comings and goings associated with the proposed use would have an unacceptable impact on the living conditions of occupants of existing residential properties with regard to noise and disturbance.
27. I observed on my site visit that the property was located in a quiet cul-de-sac location. The appellant outlines how the occupants would be supported by a qualified social worker, registered mental health nurse and support workers to meet their needs according to an agreed care plan. Whilst it may be possible that a small number of visits, predominantly during the day would not cause harm, there is however no information submitted in terms of the frequency, duration or times of such visits to the appeal property. Were such visits to be of a high frequency and at quiet times, such comings and goings would have the potential to cause disturbance for occupants of surrounding residential properties.
28. The appellant suggests that such details could be provided by condition. However, as the information would be necessary to draw a conclusion in terms of the impact on living conditions, it would not be appropriate for such information to be subject to a planning condition.
29. The lack of such information when combined with the uncertainty surrounding available parking would also have the potential to lead to disturbance to occupants of surrounding residential properties.
30. Therefore, based on the evidence before me I find that I am unable to conclude that there would not be harm to the living conditions of the occupants of surrounding residential properties in terms of noise and disturbance. The proposed development is therefore contrary to Policy 32 of the Bedford Local Plan (2020) in terms of ensuring developments minimise the impacts of, amongst other things, noise and disturbance.

## **Other Matters**

31. I acknowledge that the development would allow occupants to live in the community with an element of care being provided. Although this weighs moderately in favour of the development there is limited evidence regarding the need for such housing in the area, and it does not outweigh the adverse impacts of the proposal as outlined above.

## **Conclusion**

1. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
2. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*A M Nilsson*

INSPECTOR