



Appeal Decision

Site visit made on 28 May 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2024

Appeal Ref: APP/D1835/W/23/3333878

13 Greenford Gardens, Worcester WR2 6HQ

- 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 Piers Warren against the decision of Worcester City Council.
 - The application Ref is 23/00613/FUL.
 - The development proposed is change of use from dwellinghouse (Use class C3) to House of Multiple Occupation Sui Generis.
-

Decision

1. The appeal is allowed, and planning permission is granted for change of use from dwellinghouse (Use Class C3) to House of Multiple Occupation (Use Class C4) at 13 Greenford Gardens, Worcester WR2 6HQ in accordance with the terms of the application Ref 23/00613/FUL, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. The description of development set out above does not accurately reflect the scheme before me or which the Council considered. Moreover, during the course of the application, the appellant amended the scheme to reduce the number of bedrooms from seven to six. As such, the main parties were invited to comment on the use of a revised description: 'change of use from dwellinghouse (Use Class C3) to House of Multiple Occupation (Use Class C4)'. As no objections were received, I have dealt with the appeal on this basis.
3. The existing elevation drawings for 13 Greenford Gardens, submitted with the planning application, include the extension previously granted planning permission by the Council¹. At the time of my site visit, an extension had been constructed at the property, but I observed that it differed in appearance to that shown on the existing drawing. Nevertheless, I have dealt with the appeal on the basis of the development shown on the proposed plans and elevations referenced: 100, 101a, 106a, 107a, 108a and 109a.
4. The Decision Notice erroneously refers to "change of use of a residential dwelling to a three-bedroom House in Multiple Occupation." This is incorrect as the plans show six bedrooms and the Officer Report and Council's Statement of Case also refers to six bedrooms. I have determined the appeal based on six bedrooms.
5. The agent acting for the appellant has declared that they are a non-salaried planning inspector. I can confirm that I do not know the person as an agent or

¹ 23/00424/HP granted 30 June 2023

inspector. My determination of this appeal has been made without prejudice to all parties.

Main Issues

6. The main issues are the effect of the proposed development on:
- community balance, local services and infrastructure; and
 - the living conditions of future occupants in regard to outdoor amenity space.

Reasons

Community balance, local services and infrastructure

7. The appeal site is a two-storey semi-detached house with a front and rear garden. It occupies a corner position in a cul-de-sac located in a residential area in Worcester.
8. Policy SWDP14 of the South Worcestershire Development Plan 2016 (SWDP) seeks to support mixed and balanced communities and ensure that changes of use to a House in Multiple Occupation (HMO) do not lead to an over-concentration of HMOs or increase an existing over-concentration of HMOs. The Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) supports the implementation of Policy SWDP14 and defines 'over-concentration' as 10% or more of residential properties within a 100 metre radius of an application site being an HMO. The SPD states that figures should be rounded to one decimal place. The 10% threshold is based on the analysis of other local planning authorities' measures to control the proliferation of HMOs and the National HMO Lobby which suggests that 10% of properties or 20% of the population is the 'tipping-point' for HMO dominance in a neighbourhood.
9. The Council has identified 8 HMOs amongst 78 residential properties within a 100 metre radius of the appeal site, including the appeal property. This equates to a 10.2% HMO concentration. However, 2 Stallard Road falls outside the 100 metre radius, as confirmed in a plan provided by the Council and the appellant. Including the appeal property, this results in 7 HMOs falling within the 100 metre radius, thereby reducing the concentration of HMOs to 9% (rounded to one decimal place).
10. The appellant has pointed to 2 Ferry Close no longer appearing on the Council's licensed HMO register (as of 1 February 2024) which would further reduce the percentage of HMOs. However, the Council's methodology for identifying properties in HMO, as set out in the HMO SPD, includes other data sources such as Council Tax exemptions for occupation solely by full time students, planning application information, applications for lawful development certificates and planning officer knowledge. Therefore, based on the evidence before me, I cannot be certain that 2 Ferry Close is no longer an HMO. Nevertheless, the percentage falls under 10% as 2 Stallard Road is clearly outside of the 100 metre radius. I am therefore satisfied that the 10% threshold would not be breached as a result of the proposed development. Therefore, there would not be an over-concentration of HMOs and consequently it would not adversely affect the mix and balance of residential accommodation in the community.

11. The Decision Notice also refers to adverse impacts on local services and infrastructure. Third parties have purported that local schools have struggled to fill year groups as the wider area is over-saturated with university students. However, I have not been provided with evidence of HMOs in the wider area, the proportion of students living in the area, school capacity information or any evidence to support the cumulative effect HMOs have had on local services and infrastructure.
12. In summary, the proposed development would not adversely affect community balance or local services and infrastructure. Hence, the proposal would comply with Policy SWDP14 of the SWDP and the HMO SPD which seek to support mixed and balanced communities and ensure that changes of use to an HMO do not lead to an over-concentration of HMOs or increase an existing over-concentration of HMOs.

Living conditions of future occupants in relation to outdoor amenity space

13. There is dispute between the Council and the appellant on the size of the proposed rear garden. The Council's Statement includes a plan showing the garden area as 77.4 sq m. This excludes the paved areas which provides access to the bins and cycle storage, the bin store area, the cycle store area, the car parking spaces and the front garden.
14. The appellant states the rear garden will be around 120 sq m., excluding the front garden which is 46 sq m. and the bin store area which is 10 sq m. However, the proposed drawing does not explicitly highlight the area which comprises the 120 sq m.
15. The HMO SPD does not contain amenity space standards but refers to Policy H17 in the City of Worcester Local Plan which required "landscaping of not less than 100 square metres (1076 square feet) of communal amenity space." The policy was superseded by Policy SWDP14 of the SWDP in February 2016 which does not contain amenity space standards including the 100 sq m. standard from Policy H17.
16. The Council's Design Guide Supplementary Planning Document (DG SPD) requires all development to provide some form of private amenity space, whether it is communal or individual. While the Council has referred to a standard of 20 sq m. per bedroom for private useable garden space, in the DG SPD² this is in the context of rear extensions and the amount of private useable garden space that should be retained after a house extension. Furthermore, the standard relates to residential dwellings and the Council acknowledges that "the type and level of provision of outdoor space will vary according to the characteristics of the development, the site and its context".³
17. Nonetheless, general design principles on achieving good private garden space are given in the DG SPD including that they should usually be to the rear of the property, compatible in size to the property, provide space for everyday activities such as clothes drying and sitting out, and have high levels of privacy from surrounding properties and the public street.

² Paragraph 8.3.16

³ Paragraph 5.7.1

18. Adding further detail, the DG SPD⁴ states that garden space should be for normal domestic activities such as bin storage, clothes drying, sitting out and play space. The DG SPD clearly considers bin storage to be part of the garden space. In view of this, another 10 sq m. should be added to the Council's figure for the garden area. Furthermore, there is no reason why the paved areas in the garden should be excluded and would not be usable garden space. On this basis, the garden area would be approximately 100 sq m. excluding the front garden, cycle storage area and car parking area. This figure broadly aligns with a third party's measurement of the rear garden space at 102 sq m.
19. The Council has pointed to a recent appeal decision at 55 Martley Road⁵ where the combined front and rear garden space of 160 sq m. for seven residents was dismissed. However, the configuration and division of the garden space, coupled with the lack of privacy at the front, meant it would provide a poor quality environment for the occupiers of that property. This would be materially different from this proposal.
20. In conclusion of this matter, the proposed development would provide satisfactory living conditions for its occupants in terms of outdoor amenity space. The rear garden would have good levels of privacy and be of an appropriate size providing space for seating, storage, and clothes drying commensurate to its proposed use. As such it would comply with Policy SWDP21 of the SWDP, HMO SPD and DG SPD which, amongst other matters, seeks to ensure that all developments are of a high design quality.

Other Matters

21. There have been a considerable number of representations from local residents concerning use of the property as an HMO. Some of the matters raised are not of direct relevance to the planning considerations of the appeal, including the impact on property values, but it is a well-founded principle that the planning system does not exist to protect private interests such as the value of land and property. In respect of fire safety, the relevant Building Regulations, make suitable provision in that regard. I will address the planning related matters in turn below.
22. Many interested parties have objected to the loss of family housing. I have not been provided with specific housing needs evidence but note the Council's 2012 Strategic Housing Market Assessment (SHMA) referred to in the supporting text of Policy SWDP14. The SHMA projects substantial growth in one-person households as well as a sustained demand for larger family homes. It refers to the need for less costly smaller sized housing of different tenures, while supporting mixed and balanced communities. Within this context, the Council states that each planning application for conversion to an HMO is considered against Policy SWDP14. Given the need to accommodate both smaller and larger households, and as the proposal would not result in an over-concentration of HMOs, the loss of one family dwelling, would not be detrimentally harmful to the mix and balance of housing in the area.
23. Objections have been raised by third parties regarding noise, disturbance, litter and air pollution arising from the use of the property as an HMO, with concern for the wellbeing and mental health of elderly and more vulnerable residents in

⁴ Paragraph 8.3.16

⁵ Appeal Ref: APP/D1835/W/23/3318831.

the area. The general level and pattern of activity associated with an HMO is different to a typical family unit but even with six people living in the property, the number of movements into and out of the property on a daily basis would still be limited and would not lead to unacceptable levels of noise and disturbance.

24. Although the application drawings show double bedrooms, Use Class C4 restricts the number of occupants in an HMO to six persons at maximum, so the proposal would not represent an over-intensive use of the site. Planning permission would be required to increase the number of occupants and the Council could use robust monitoring and enforcement to ensure the proposed use operates lawfully.
25. The potential for any localised impacts, including to living conditions, could also be reduced through a planning condition requiring the submission of a management plan. I have therefore imposed such a condition.
26. Despite concerns from interested parties about the fear of crime and the potential for anti-social behaviour arising from the proposal, no substantive evidence has been advanced by third parties on this matter. It is also implied that the occupation of the HMO will be transient in nature; however, there is no information to suggest that residents would not occupy the property for longer periods, becoming integrated with the local community.
27. Third parties have raised concerns about the adequacy of the room sizes, but the Council accept these meet its relevant standards and that the proposed internal layout is satisfactory. Adequate provision has also been made for storage of waste and recycling facilities. The proposed development would therefore provide satisfactory living conditions for its occupants.
28. In terms of the living conditions of neighbours, there would be no external change or enlargement to the building, so it would not have any greater impact on neighbouring properties in respect of outlook, privacy or access to sunlight or daylight than the existing building.
29. Concerns have been expressed that the proposal would not provide sufficient off-street parking which will exacerbate existing parking pressures and create obstructions to emergency and service vehicles due to cars being parked on the street. The creation of four parking spaces and cycle storage for six cycles would exceed the HMO SPD requirement for three parking spaces for a six bedroom HMO. I am therefore satisfied that the proposal would not compromise highway safety. I also note that the Council undertook a detailed assessment of the location and found no reason to object to the proposal on highway safety or capacity grounds. Furthermore, the appeal site is located in an area accessible by public transport and close to local services and facilities.
30. While student accommodation has been built nearby on the site of the former YMCA building, I have not been provided with specific evidence regarding the lack of demand for HMOs in the area or the precise nature and whereabouts of other student accommodation available.
31. Concerns have been raised regarding pressure on the drainage system due to the potential increase in wastewater from the site, however no substantive evidence has been submitted to suggest that the existing system could not accommodate the proposed use.

32. None of the other matters raised alter my conclusions on the main issues.

Conditions

33. I have considered the list of conditions provided by the Council and, where appropriate, amended the wording for clarity and removed tailpieces to conditions that circumvent the statutory route to vary conditions or deprive interested parties of the opportunity to comment.
34. One of the Council's suggested conditions states that no additional bedrooms shall be created without the express consent of the Council. As Use Class C4 restricts the number of occupants to six people at maximum, this condition is not necessary.
35. The Council's suggested pre-commencement condition requiring the submission and approval of a construction environmental management plan is also not necessary as the proposal would not involve any construction work.
36. A condition requiring a management plan for the use of the property is necessary to safeguard the living conditions of neighbouring occupiers. However, I have removed the detail suggested by the Council to provide greater flexibility to the circumstances relevant to the site.
37. Conditions requiring the proposed cycle parking, additional car parking spaces, visibility measures, surfacing and dropped kerb work are necessary in the interests of highway safety. Conditions requiring a Travel Welcome Pack and electric vehicle charging facilities are also necessary to encourage sustainable travel.
38. A standard time condition for the commencement of development and compliance with the approved plans is necessary to provide certainty and clarity.

Conclusion

39. For the reasons given above the appeal should be allowed.

U P Han

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings: Location Plan 100, Amended Site Plan 101a, Proposed Ground Floor Plan 106a, Proposed First Floor Plan 107a and Proposed Elevations 109a.
- 3) The development hereby approved shall not be occupied until the access and parking, including 1m pedestrian visibility, surfacing and dropped kerb works, shown on the Site Plan, Drawing No. 101a have been provided. These areas shall thereafter be retained and kept available for the purposes of parking only at all times.

- 4) The development hereby permitted shall not be occupied until the cycle parking shown on the Amended Site Plan, Drawing No. 101a has been provided. Thereafter the provision shall be retained for the purposes of cycle parking only at all times.
- 5) The development hereby approved shall not be occupied until a residential Travel Welcome Pack promoting sustainable forms of access to the development, has been submitted to and approved in writing by the Local Planning Authority. The pack shall be provided to each resident at the point of occupation.
- 6) The development hereby permitted shall not be first occupied until electric vehicle charging facilities have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 7) Prior to the first occupation of the site as a house in multiple occupation, full details of a management plan for the use of the property hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

End of Schedule