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# Appeal Decision

Site visit made on 2 July 2024

**by U P Han BSc (Hons) DipTP MRTPI**

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

**Decision date: 1 August 2024**

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**Appeal Ref: APP/K2420/W/24/3339777**

**5A Dragon Lane, Newbold Verdon, Leicester, Leicestershire LE9 9NG**

- 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 Scott William Wheatley against the decision of Hinckley and Bosworth Borough Council.
  - The application Ref is 23/01047/FUL.
  - The development proposed is change of use from a 10 bedroom single residence (C3) to a 10 bedroom House in Multiple Occupation (H.M.O.) (Sui Generis).
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance; and
  - whether the proposal would provide adequate parking provision.

## Reasons

3. The appeal site comprises a large detached house set back from the road with a drive to the front and a substantial garden to the rear. The front of the house is single storey, which increases to two storeys towards the rear. Dragon Lane is predominantly residential in character and the appeal site is bounded by houses to either side with terraced houses opposite.
4. The proposal is for a 10-bedroom house in multiple occupation (HMO) which would support adults facing homelessness or tackling substance misuse or both. The proposal would involve 24-hour on-site support staff presence. Two staff would be continually present during the day and one concierge staff would be present in the evening and overnight.

### *Living conditions of neighbouring occupiers*

5. In reference to the Planning Practice Guidance on Noise, the appellant suggests that the proposal would fall between the categories of having 'No Observed Adverse Effect Level' for the majority of the time and 'Lowest Observed Adverse Effect Level' on a small number of occasions. However, while I acknowledge that the dense vegetation to the borders of the rear garden, low density of development in the area and proposed on-site staff presence would

help to reduce noise associated with the proposed use of the appeal site to some degree, they would not mitigate for the likely significant increase in noise and disturbance as result of the activity of 10 independent individuals. Such activity would likely include more people movements, car movements, deliveries and rubbish to be collected.

6. Visitors associated with 10 occupants would also lead to potential for more people and car movements. Furthermore, the comings and goings of 2 staff during the day and 1 staff in the evening/ night would likewise generate additional noise and disturbance. Taken together, the proposed number of occupants and staff, plus associated visitors would likely give rise to a level of noise and disturbance that would be disruptive to the occupiers of nearby residential properties.
7. The appellant suggests that the proposal would result in a reduction in vehicular noise compared to its previous use as a care home. However, its current use as a single family dwellinghouse would see a marked increase in activity as a result of the proposal. There is no substantive evidence before as to the low car ownership levels of future occupants of the HMO, and in any event, the car ownership of future occupiers cannot be controlled.
8. I note that the term 'general disturbance' does not appear in Policies DM10 and DM18 of the Site Allocations and Development Management Development Plan Document adopted in July 2016 (SADM DPD) or the National Planning Policy Framework (the Framework). However, the Framework is clear that development should avoid noise giving rise to significant adverse impacts on health and the quality of life. The Framework refers to the Noise Policy Statement for England (2010) which recognises that noise exposure can cause annoyance and sleep disturbance, both of which impact on quality of life. Therefore 'disturbance' is not restricted to matters of lighting, air quality, odour, vibration and visual intrusion.
9. For the reasons above, I conclude that the proposed development would have a harmful effect on the living conditions of neighbouring occupiers with regard to noise and disturbance. Hence, the proposal would conflict with Policy DM10 of the SADM DPD which requires development not to have a significant adverse effect on the amenity of nearby residents and occupiers. It would also not comply with the Framework which seeks to create places that promote health and well-being with a high standard of amenity.

#### *Parking provision*

10. The proposal includes 4 car parking spaces on the front drive. Based on the appellant's statement, staff would drive to work, so the number of car parking spaces available to occupiers and visitors would be reduced to 2 spaces during the day and 3 spaces in the evening.
11. The appellant has suggested that future residents of the proposed HMO would have very low car ownership. However, no substantive evidence has been provided to support this statement. In any event, there would be nothing to prevent future occupiers from owning a car.
12. Despite the number of car parking spaces being the same as when the property was in use as a care home for the elderly, an HMO is a materially different use

to a care home and more likely to accommodate residents who may own a car or rely on a car due to the infrequency of bus services in the area.

13. The SADM DPD does not set out specific parking standards for HMOs. However, the Leicestershire Highway Design Guide (LHDG) indicates that 3 off-street car parking spaces are required for a 4-bedroom dwelling which would suggest a need for a minimum of 7 spaces for a property with 10 individual occupants, not including spaces required for staff who are present on site at all times. Notwithstanding the planning status of the LHDG, the proposal falls substantially short of the car parking spaces suggested, given the size of the HMO proposed. Furthermore, the dimensions of the proposed car parking spaces do not meet the guidelines set out in the LHDG.
14. I have carefully considered the evidence submitted by the appellant in relation to on and off-street parking. It is evident that some of the residential properties closest to the appeal site do not benefit from off-street parking, adding to the demand for on-street parking. Furthermore, there is a no waiting traffic regulation order on Dragon Lane from its junction with Main Street to No 7 Dragon Lane on one side and No 8 on the other, which reduces the number of on-street spaces available. The presence of a primary school in the vicinity also adds to existing parking pressures, particularly at the start and end of the school day. While there are on-street spaces further along Dragon Lane, there is no guarantee that these would always be available, particularly given the lack of off-street parking provision in the area. Any parking overspill from the appeal site would exacerbate existing on-street parking pressures.
15. With the absence of substantive evidence to the contrary, and taking account of the factors above, the proposal would likely result in increased demand for parking on the highway, which would increase the risk of people parking in spaces which are not appropriate and increase vehicle movements seeking to find spaces in an area where demand already appears to exceed the supply. Consequently, these effects would harm the proper functioning of the highway and would increase the risk of pedestrian and vehicle collisions in the area, therefore harming highway safety.
16. For these reasons, I conclude that the proposed development would not provide adequate parking provision. This would conflict with Policy DM18 of the SADM DPD which requires new development to provide an appropriate level of parking. It would also not comply with the Framework which seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity.

## **Other Matters**

17. Although I note Policy 7 of the adopted Core Strategy (CS) supports housing development within the settlement boundary of Newbold Verdon, this is in the context of Policy 15 of the CS which relates to affordable housing provision and Policy 16 of the CS which requires development of 10 or more dwellings to provide a mix of housing types and tenures. As the proposal is for a change of use from a dwellinghouse to an HMO, Policy 7 of the CS is not directly relevant or determinative to this appeal.
18. I note that the appellant indicates a high level of demand for what the Council's Housing Options Manager describes as 'supported accommodation' and 'hostel accommodation in the Borough'. However, this is a materially different use to

that of an HMO, which is generally not restricted to specific groups of people and, which does not provide on-site support to meet specific needs of its occupiers.

19. Concerns have been expressed about potential for increase in anti-social behaviour and crime as a result of the proposal. However, no substantive evidence has been advanced by parties on this matter.
20. I note the high standard of outdoor amenity space that would be provided by virtue of the large rear garden and the minimal visual effect of the proposal on the appearance of the area due to the lack external alterations proposed to the building. However, these are neutral matters which neither weigh in favour of, nor against the proposal.
21. While the Framework does not contain a presumption in favour of what the appellant describes as 'employment opportunities and mixed planning use,' it would result in some modest economic benefits from the employment of about four to five full time equivalent staff, excluding contractors. I therefore attach this benefit modest weight. The proposal would support people facing homelessness and those tackling substance misuse thereby promoting health and wellbeing, including spiritual wellbeing and life skills. I therefore attach these benefits some weight. However, these benefits would not outweigh the significant harm that I have identified to the living conditions of neighbouring occupiers and highway safety.

## **Conclusion**

22. 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. For the reasons given above the appeal should be dismissed.

*U P Han*

INSPECTOR