



Appeal Decision

Site visit made on 30 July 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2024

Appeal Ref: APP/K0235/W/24/3337712

104 Salisbury Street, Bedford MK41 7RQ

- 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 Ms Pia Carey against the decision of Bedford Borough Council.
 - The application Ref is 23/01267/COU.
 - The development proposed is the change of use from a residential property (C3) to a HMO (C4).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a residential property (C3) to a HMO (C4) at 104 Salisbury Street, Bedford MK41 7RQ in accordance with the terms of the application, Ref 23/01267/COU, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted relates to plan numbers 23-060-01, 23-060-02 except in respect of the bin/waste storage shown on plan 23-060-02.
 - 2) Unless, within three months of the date of this decision, a scheme for cycle parking (with access thereto) for five bicycles, in accordance with Bedford Borough Council's 'Parking Standards for Sustainable Communities: Design and Good Practice' (2014), is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three months of the local planning authority's approval, the use of the site as an HMO shall cease. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. I am also aware of the revised consultation draft from July 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. References to paragraph numbers in this decision relate to the December 2023 version of the Framework.

Background and Main Issues

3. The property is an existing House in Multiple Occupation (HMO) and has been operated as such for a period of many years. The appellant states that they are unable to demonstrate a ten-year period in this use such that there would be

immunity from enforcement action under the provisions of the Town and Country Planning Act 1990. Even so, it is apparent from evidence that the use of the property as an HMO is a situation that has been ongoing for some time and that the application was submitted to the Council to regularise this. It is not my role here to consider the lawfulness of what has occurred and, therefore, the main issues are:

- a) the effect of the proposed development on the living conditions of the occupants of neighbouring properties having regard to noise and disturbance,
- b) whether the proposed development would provide satisfactory living conditions for the occupants having regard to the internal layout and number of occupants, and
- c) whether adequate refuse storage arrangements are in place to cater for the development.

Reasons

4. The site comprises a mid-terrace red brick property set over two floors. This is similar to the remainder of homes along Salisbury Street which, particularly towards this end of the street, are all of the same vernacular. Houses feature red brick facades, attractive bay windows to the front, elements of fine detailing and rear access via passageways through covered walkways.

Neighbours living conditions

5. The property has operated as an HMO for a period of many years and, until recently, this appears to have been ongoing with little complaint from neighbouring properties. None of the evidence provided to me indicates that noise or disturbance from this property has been a matter of concern whilst the property has been used in this manner.
6. The patterns of use with an HMO are likely to be somewhat different to the use of this, or any property, as a single family dwelling. I do not accept however that the occupation of the property as an HMO would necessarily give rise to a greater number of occupants than were it to be occupied as a private dwelling. The property, were it to be configured as a family home, is of a sufficient size to be a 3 bedroom, 6 person dwelling having regard to the Nationally Described Space Standard and therefore the number of occupants in either scenario would, or could, be similar. The nuances of any noise or disturbance may vary but as the number of occupants remains comparable, it would be difficult to identify any substantive matters to differentiate between the two.
7. There can be no cast iron guarantee that problems of noise and disturbance will not arise from the proposed use, as this will depend on the particular group of occupiers. Such an argument would also apply to a family dwelling. Nevertheless, the probability is that occupation of the property as a five bedroom HMO would not be materially different to that of a 3 bedroom 6 person family dwelling, in terms of its impacts on neighbours. I therefore conclude that there would be no conflict with the requirements of policy 32 of the Bedford Borough Local Plan (BBLP) which requires new development to minimise and take account of the effects of pollution and disturbance.

Residents living conditions

8. The HMO contains five good-sized bedrooms, two on the ground floor and three on the first floor. All the bedrooms exceed the minimum floor areas set out in Table 6 of the Bedford Borough Houses in Multiple Occupation Supplementary Planning Document (HMOSPD) for single occupancy rooms with one (bedroom 5) being of a sufficient size for two person occupancy. There is a reasonably sized kitchen at the rear of the building. The property contains a bathroom and separate toilet on the ground floors and bathroom with toilet on the first floor. There is a private patio area at the back of the property.
9. Beyond the kitchen area and rear patio, there are no areas of the property which could be occupied as shared communal areas. I recognise that this is expressed as a desirable feature in the HMOSPD, nevertheless it is not a requirement.
10. I recognise that the position of the ground floor bathroom and toilet beyond the kitchen is not an optimal arrangement and that the internal hallway is on the narrower side. Nevertheless, alternate bathroom and toilet facilities are available on the first floor and the implications of a slightly narrow hallway would be no different were the property in use as a family home.
11. I therefore conclude that the proposed layout for the HMO would provide adequate and satisfactory living conditions for the occupants and would therefore comply with BBLP policy 2S and Principle 2 of the HMOSPD. These policies promote healthy and safe living environments.

Refuse storage

12. The property presently has waste storage in the front garden, in the form of wheelie bins. From my site visit, this appeared to be the manner in which the overwhelming majority of other properties in the street store refuse despite the majority having rear access in some form or another. I accept that this scenario is not ideal but the nature of older terraced housing such as those along Salisbury Street have limited options.
13. The proposal to store refuse in the rear garden area and to drag bins via the covered passageway seems to me to be so impracticable to the extent that it would not be used. The evidence of bin storage in front gardens to other properties along the street suggests that this is a general consensus in the area. Indeed, the front boundary walls to most properties, including the appeal site, are approximately the same height as a standard wheelie bin such that this does provide a reasonably effective screen.
14. Therefore, whilst the current waste storage solution in the front garden is not ideal, it represents a reasonable compromise given the constraints of the site and area as a whole. I am therefore satisfied that adequate refuse arrangements are in place to cater for the development and it complies with Principle 4 of the HMOSPD and Technical Guidance on Waste and Recycling in New Developments.

Other Matters

15. In reaching my decision here, I have had regard to the comments of neighbours and interested parties. The Council's evidence suggests that the use

of this property as an HMO would not breach the thresholds for concentrations of HMOs in an area and I have no reason to disagree with this conclusion.

16. Whilst I recognise the issue of on-street parking concerns in the area, I have no reason to conclude that the use of the property as an HMO would generate a significantly higher demand for on street parking when compared to a 3 bedroom, 6 person family dwelling. I am particularly mindful in this regard of the site's location close to the town centre, public transport infrastructure and shops and services. I have nevertheless imposed a condition here requiring the provision of cycle parking to promote alternative modes of transport other than the private motor vehicle.

Conditions

17. I have considered the conditions recommended by the Council and have imposed these, in substance, with edits and modifications. I have not imposed a time limit condition for the commencement of development as the use is already occurring.
18. I have imposed a condition to confirm accordance with the approved plans for certainty. This includes removal of reference to rear bin storage.
19. A further condition requires the provision of cycle parking to encourage sustainable transport. I have adjusted the wording of this condition to ensure that this can be lawfully delivered being mindful of the retrospective nature of the application.

Conclusion

20. For the reasons given above I conclude that the development would give satisfactory living conditions for neighbouring residents and for the occupants and that adequate waste storage is available. The development therefore complies with the provisions of the development plan and the material considerations do not indicate a decision other than in accordance with it. The appeal is allowed.

Nick Bowden

INSPECTOR