



Appeal Decision

Site visit made on 23 July 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/R4408/W/24/3338858

109 Dodworth Road, Barnsley S70 6HL

- 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 Oliver Scott of Yorkshire Care Housing Ltd against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref is 2023/0639.
 - The development proposed is described as: *change of use from 8 bed HMO C4 to 6 Self-contained flats C3 this is a retrospective application this work was carried out in 2018 and I have building control sign off for it. The company I represent bought the property in January 2022.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit I saw that the individual units were occupied and appeared to conform with the plans submitted with the application. Furthermore, the appellant notes that the property was in its current form as 6 independent units when the property was purchased several years ago. Therefore, it is understood that the application has sought to regularise this use.
3. The description taken from the application form suggests that the building is used as an 8-bedroom House of Multiple Occupation (HMO). The parties disagree on the lawful use of the building, as the Council consider that it is a family dwelling due to the absence of planning history for an HMO use. There is various information before me in relation to its past uses, including an HMO licence and building control certificate for an HMO for 6 units. However, there is no convincing evidence, such as a certificate of lawfulness or planning decision to determine the lawful use of the building as an 8 bedroom HMO. Given this uncertainty, I have assessed the appeal on the policies relevant to each of the main issues in this appeal.

Main Issues

4. The issues relevant to this appeal are:
 - The effect of the development on the provision of family dwellings in the area;
 - Whether appropriate living conditions have been secured for the occupiers of the development, with particular regard to internal floor space, outlook and the provision of external amenity space;

- The effect of the development on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance; and,
- The effect of the development on highway safety.

Reasons

The sub-division of the property

5. The appeal relates to a mid-terraced house on Dodworth Road. A front garden is located to the front of the property. To the rear of the property is a large unsurfaced area. The Council state that this is used as a parking area by the occupiers of the property and its neighbours. The development is for the independent units to remain as shown on the plans submitted. Each apartment is an independent unit within the same property.
6. If the property was used as a family dwelling before its conversion to six self-contained flats, Policy H9 of the Barnsley Local Plan 2019 (LP) states that the loss of existing larger dwellings will be resisted. Although it is only guidance, the Barnsley Design of Housing Development Supplementary Planning Document 2023 (SPD) suggests that larger dwellings are considered as those with four or five bedrooms or could accommodate that number of bedrooms without significant change.
7. The building is a large dwelling. As shown in its existing configuration on the plans before me, the building is capable of accommodating a large number of bedrooms without significant adaptation of the physical structure of the building. It therefore follows that the creation of 6 self-contained flats within the appeal property would result in the loss of a larger dwelling. This is in the absence of evidence of the building having a lawful use as an HMO.
8. If I were to consider the building as an 8-bedroom HMO as suggested by the appellant, Policy H9 further advances that support will be given to the re-establishment of HMO's into single family sized houses. As such, even if the building does indeed have a lawful use as an 8-bedroom HMO, this would still conflict with Policy H9 as it would fail to re-establish the building into a single-family sized property.
9. To conclude, the development would conflict with Policy H9 of the LP as it would result in the loss of a larger dwelling which is capable of accommodating 4 or 5 bedrooms. Additionally, even if the property can be used as a HMO, this would also conflict with the requirements of Policy H9 of the LP.

Living conditions of occupiers

10. The plans show an entrance hall with two units located in the main form of the dwelling. These are considered as studio units by the Council due to the lack of separation between the bedspace and kitchen. To the rear of the property is a door which leads to the rear amenity space at the property. Access to another ground floor room is located in an outrigger to the rear of the property. This is room 3, which is a 1-bedroom unit due to the separation of the bedroom from the kitchen and living space.
11. Policies GD1 and D1 of the LP require development to have no significant adverse effect on the living conditions of residents and to create development which is of a high-quality design. The South Yorkshire Residential Design Guide

2011 (RDG) notes that a 1-bedroom unit should provide 46m² of space for a one-person unit and 33m² for a studio unit. In consideration of this guidance, the three ground floor units would fall significantly below these requirements. As such, the occupiers of these rooms have little usable space to undertake normal domestic activities such as the drying and ironing of clothing, and general movement within the space. Each room is unacceptably confined and cramped.

12. Three rooms are located on the upper floor of the building. An additional 2-bedroom unit is located in the upper floor of the outrigger to the rear. The overall sizes of these rooms are not depicted on the plans before me. However, these are of a similar size or smaller than those located on the ground floor which do have their sizes noted on the plans before me. Furthermore, I saw during my site visit that these rooms have little usable space. These rooms are cramped and sub-standard in space due to their self-contained nature, allowing very little movement within each flat.
13. Turning to the matter of outlook, room 2 and room 3 as depicted on the plans are located on the ground floor to the rear of the appeal property. The windows which serve these flats look out onto the rear yard area of the property. Owing to the short distance between these windows and the wall of the adjacent property, this creates a negative outlook for these occupiers which is limited in depth, with a tunnelling effect to room 2 owing to its orientation and position between the outrigger of each property. Moving to the upper floor, the rooms to the rear of the property look across to the neighbouring property. Given the distance between the windows of these units and the neighbouring building and the location of these units in the upper floor of the building, I find that these particular units do provide a tolerable outlook.
14. With regard to private amenity space, the SPD notes that shared private space for flats must be a minimum of 50m², plus an additional 10m² per unit as balcony space or added to shared private space. Where private space cannot be provided balconies must be provided. A small patio area is located to the rear of the property. I cannot ascertain the overall numerical size of this space. However, the assessment of private amenity space is not just limited by a numerical calculation. The existing patio area does not offer any private space for any of the individual units. While the standards set out in the SPD are not absolute requirements, the substantial shortfall in outdoor space indicates an overall poor standard of provision for occupiers. In this configuration, occupiers will not be able to utilise a private space for their own personal outdoor relaxation or to undertake recreational activities away from other residents of this property. As such, the development fails to meet the standards set out in the SPD.
15. To conclude, the development fails to provide adequate living conditions for its occupiers with regards to the floor space provided in each unit. This is heightened by an absence of private amenity space for each unit and the poor outlook for the units located to the rear of the ground floor. This has created a poor standard of living conditions for its occupiers. As such, the development conflicts with Policies GD1 and D1 of the LP and the guidance found within the SPD and RDG. These policies require development to have no significant adverse effect on the living conditions of residents and to create development which is of a high-quality design.

Living conditions of neighbouring occupiers

16. The appeal property is located amongst other family dwellings. It is not unreasonable to expect members of a family dwelling to have their own working hours, a difference in behaviour and comings and goings. However, there is an expectation that this would be intensified in HMO or shared properties due to the number of people living within a building and the unconnected relationship of each resident.
17. Taking into account the number of individual units contained within 109 Dodworth Road, the occupiers will have independent lives, with separate routines, and comings and goings along with those of any visitors. This will lead to a level of activity that would be more intensive than that which could be reasonably be expected to be associated with a single dwelling. This would result in additional noise and disturbance through the general comings and goings of residents beyond that typically associated with a family home.
18. If I were to be persuaded that the existing, permitted, use of the building is a HMO, I am mindful that there are several significant differences between an HMO and the appeal scheme. Firstly, the appeal scheme would create six separate households and could potentially feature a greater number of visitors. Secondly, self-contained flats are likely to be more attractive for occupation by couples when compared to an HMO. In result, there would be a greater number of residents, which would create more noise owing to a greater level of activity.
19. To conclude, the intensification of the building will create an increase in the level of activity generated by six people who will live independent lives, with separate routines to each other. This will increase the general comings and goings and activity of the property, beyond that expected of a family dwelling, to the detriment of neighbouring occupiers. Therefore, I find conflict with Policies GD1 and D1 of the LP. These policies expect for development to not significantly effect the living conditions of residents, and to be of a high-quality design.

Highway safety

20. The surrounding area comprises of terraced properties. Parking restrictions are located to the front, rear and side streets of 109 Dodworth Road. The appeal site is defined by the red line boundary, and the change of use is considered with regard to the land included in it. To the rear of the site is an area of open land which appears to be used as a car park.
21. Policy T4 of the LP states that development is expected to be designed to provide the development and its surroundings with safe and convenient access and movement. The Parking Supplementary Planning Document (SPD1) advises that in reference to self-contained flats, a total of 6 parking spaces are recommended for the development subject to this appeal.
22. Given the number of spaces required, I do not consider that the space behind the property is wide enough to enable the parking of 6 vehicles. In particular, this lack of space is likely to make it difficult for a vehicle to be manoeuvred within the red line boundary of the site conveniently, particularly if several vehicles have been parked within the site. It has not been demonstrated that any spaces could be provided with adequate turning facilities within the red line

boundary. Owing to the lack of convenient, on site car parking, it is likely that demand for on street car parking would increase.

23. As the development is for six self-contained flats, there will be a greater demand for car parking in inopportune locations such as on corners to adjacent roads when occupants cannot park within the red line boundary of the site. The parking of six vehicles will create access and movement on the adjacent streets contrastingly difficult and therefore would erode highway safety as it would reduce safe and convenient movement.
24. To conclude, the development does not provide six parking spaces and as such, will result in unsafe and inconvenient movement of vehicles. As such, the development works against Policy T4 of the LP.

Conclusion

25. The scheme would conflict with the Development Plan taken as a whole. There are no material considerations that indicated that the decision should be made other than in accordance with the Development. Therefore, for the reasons given above the appeal should be dismissed.

J Smith

INSPECTOR