



Appeal Decision

Site visit made on 30 July 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th September 2024

Appeal Ref: APP/J0350/W/24/3343896

17 Petersfield Avenue, Slough SL2 5DY

- 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 Our Quarters Limited against the decision of Slough Borough Council.
 - The application Ref P/05193/005, dated 10 November 2023, was refused by notice dated 23 February 2024.
 - The development proposed was described as "Change of use from a 6 room HMO into an 7 room HMO (Sui Generis Use)."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant name in the banner heading above is taken directly from the planning application form. I sought to double check with the parties as to whether this is the correct name, and both have indicated that the appeal can proceed under this appellant name.
3. The description of development on the decision notice differs to the description in the banner heading above, which is taken from the planning application form. The decision notice description refers to a "7 person HMO" and the appellant's statement also makes a number of references to a proposed use as a 7 person House in Multiple Occupation (HMO). I have therefore determined the appeal on this basis.
4. The appellant states that the initial proposed floor plan was labelled incorrectly and did not show the true sizes of the bedrooms, so an amended plan has been provided that includes the correct room sizes. I have decided to accept this plan for consideration in this appeal, as it does not result in a different proposal and would therefore cause no procedural unfairness to the parties.
5. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. The proposed reforms are draft and therefore may be subject to change before the final document is published. The consultation closes on 24 September 2024. I have sought comments from the parties as to whether these proposed reforms have any relevance to the appeal, who both consider that the proposed draft reforms do not impact the case at hand.

Main Issues

6. The main issues are:

- whether the proposed use accords with the development strategy for the area, with regard to the supply of family accommodation;
- whether the proposed use has an intensity that is appropriate to the character of the area and the living conditions of neighbouring occupiers; and,
- the effect of the proposed development on the living conditions of future occupiers, with regard to noise, disturbance and garden space provision.

Reasons

Type of housing

7. The appeal site (No. 17) is currently in use as a 6- HMO. For planning use purposes, this falls within Use Class C4: use of a dwellinghouse by not more than six residents as an HMO. The Council granted a lawful development certificate (Ref: P/05193/004) for a change of use from residential (Use Class C3) to a 6-bedroom HMO (C4).
8. The appeal proposal is for a change of use to a 7 person HMO, and the submitted plans show 6 existing bedrooms and 7 proposed bedrooms. During my site visit to No. 17, it was clear that significant investment has been made to convert this property to an HMO, and it is now subject to a Council HMO licence for up to 6 people (Ref: SBC-842536435064). It therefore appears unlikely that the property will be reverted to a single family use in the short-medium term, irrespective of this appeal decision.
9. Although No. 17 is not currently used as family accommodation, it could revert back as such without requiring planning permission from the Council. The appellant contends that Core Policy 4 of the Slough Local Development Framework Core Strategy Development Plan Document 2008 (the Core Strategy) is not relevant to the appeal proposal. Conversely, should the appeal use be allowed and implemented, conversion of No. 17 back to family accommodation would require additional planning permission from the Council. This is because the 7 person HMO would be classified as a use of its own, or *sui generis* use. It is put to me that this would not be a stumbling block for anyone purchasing the property in future as their family home.
10. I am not however persuaded by the above arguments. I cannot reasonably assume that existing or prospective families would always have the requisite knowledge of the planning system to feel sufficiently confident in committing significant financial resource to purchasing a property that does not have a lawful use as a single family home. I also consider it likely that many would be put off by the further time and financial expense that would be incurred by such a requirement for additional planning permission. For these reasons, the appeal proposal would further cement the existing HMO use and in this respect, would materially conflict with Core Policy 4 of the Core Strategy having regard to the supply of family accommodation.
11. The Council cannot demonstrate a five-year supply of deliverable housing sites, with a supply of 2.6 years as set out in its Annual Monitoring Report (AMR) 2022/2023. Although the Council has not implemented an Article 4 Direction restricting new HMO uses, its spatial strategy clearly seeks to avoid the net loss of family accommodation. Its AMR also showed that from 01 April 2022 to 31 March 2023, 6% of new housing completions were houses and 94% were flats

or maisonettes. The above demonstrates that there is an existing and persistent shortfall of provision of new housing types most suitable for families.

12. I have been provided with two appeal decisions¹ where Inspectors allowed a change of use from 6 person HMOs to *sui generis* HMOs (7 and 8 persons), along with three dismissed appeal decisions² for *sui generis* HMOs ranging from 6 persons to 8 persons. I accept that all but one of these cited appeal properties are within Slough Borough, and were also subject to the same local planning policies as the current appeal proposal. However, I have not been provided with the full details that were considered under these appeals, including the housing supply at the time of the Portsmouth City Council appeal decision (50 Hudson Road, Southsea). Additionally, most of the development proposals do not directly match that of the current appeal proposal. This limits the weight I afford these appeal decisions as material planning considerations.
13. Of particular note is the appeal decision of 69 London Road, Langley, where the Inspector found the loss of family housing to be “only potential” and concluded that there would be “little or no effect” on the supply of family housing. The actual shortfall of family housing across the Borough has however still persisted some 12 years after this appeal decision, as indicated in the Council’s AMR and housing supply figures. Although the proposed HMO use would also provide a form of housing within an existing property, it is not a form of family housing and it uses a building that could be reverted back to a single family use in the future without the need for planning permission. The latest 2023 publication of the Framework also seeks to ensure the delivery of a sufficient supply of homes and that the needs of groups with specific housing requirements are addressed.
14. I therefore attach significant weight to the conflict with Core Policy 4. The associated benefits arising from the provision of one low-cost single room to the HMO would not outweigh this harm.
15. The decision notice cites conflict with Core Policy 3, which states, amongst other things, that new development should not result in the net loss of any existing housing. The supporting text to this policy outlines concerns over intensification of use within suburban areas, including from HMOs. However, the main body of this policy does not explicitly refer to the protection of existing family housing, and an HMO use is also a form of housing. Based on the evidence put before me, Policy CP3 is therefore not directly relevant to the appeal proposal in this case.

Intensity of use

16. As No. 17 can be lawfully used as an HMO by up to six persons, I consider this to be the appropriate baseline when assessing the impacts of the appeal proposal. I have no doubt that the noise and disturbance that would likely be generated by the proposed use of No. 17 by 7 unrelated individuals would be noticeably greater than a typical single family use of this property. A neighbouring resident has also raised concerns during this appeal regarding noise and vibration generated from within the property and people coming and going throughout the night.

¹ APP/Z1775/W/17/3191358 (50 Hudson Road, Southsea); APP/J0350/A/11/2157787 (69 London Road, Langley)

² APP/J0350/W/20/3245330 and APP/J0350/W/21/3282736 (13 York Avenue, Slough); APP/J0350/W/20/3245018 (53 Lansdowne Avenue, Slough)

17. However, in my judgement, an increase in unrelated occupancy from 6 to 7 persons would not lead to a significant additional increase in activity either generated from within the appeal property, or from external movements related to the property. Whilst I noted that No. 17 forms a cluster of suburban terraced dwellings facing Petersfield Road, it is also within short walking distance to apartments, offices, various commercial premises and a local shopping parade. There is therefore a significant mix and intensity of uses in the environs of No. 17, and this would already generate a variety of different activities that would not typically be experienced within an exclusively low-density residential area.
18. For the above reasons, the proposed HMO use would be of an appropriate intensity that would avoid any additional harm to the character of the area and the living conditions of neighbouring occupiers. In this respect, the proposal complies with Core Policy 8 of the Core Strategy and Saved Policy H20 d) of the Local Plan for Slough (2004).

Living conditions of future occupiers

19. The existing rear amenity area includes a small paved area adjacent the dwelling's rear elevation, a larger lawn area beyond, and a pathway alongside it towards a rear outbuilding, a smaller shed building (which is not included in the submitted plans), and a rear pedestrian access gate to the communal laneway along the rear of the appeal site. There is another small paved area adjacent the rear buildings, and this area was being used for bin and informal cycle storage during my site visit. I also noted a long washing line running across the lawn from the rear elevation to the outbuilding.
20. The Council considers the appeal proposal as comparable to a 4+ bedroom dwelling and thus requires a minimum 100sq m of rear garden, as set out in EX48 of their Residential Extensions Guidelines Supplementary Planning Document (SPD) 2010. However, an extension is not proposed and the site is lawfully used as a 6 person HMO. The existing property could also be used lawfully as a single family dwelling with at least four bedrooms, and I understand it was also recently used as such. Therefore, in my judgement the above SPD requirement does not apply to the appeal proposal.
21. I also consider it unlikely that all HMO occupants would use the amenity space at the same time. Even though some of the lawn would be lost to facilitate the proposed 7 cycle stand (as shown on the site plan), following my site observations the amount of amenity space would still be appropriate to facilitate the everyday needs of the appeal proposal. In this respect, the proposal complies with Saved Policy H20 c).
22. The Council raises concern regarding the provision of 2 bathrooms for a total of 7 persons, which may result in conflict during peak times. Bearing in mind the existing lawful use of the appeal site, the proposed increased intensity of use would not, to my mind, lead to a material decline in living conditions for future occupiers in terms of provision of bathrooms or other internal living facilities. The Council also raises concern regarding the lack of a defensible external space for the proposed ground floor rear bedroom. I do not consider that the intensity of the garden use adjacent this bedroom's window would adversely harm the living conditions of its future occupiers.

23. The proposed additional bedroom would use a room that lawfully exists as a dining room, and is alongside the existing communal kitchen/living room. The kitchen/living room is long and includes a breakfast bar style table attached to part of the dividing wall with the bedroom, with 3 high chairs. The room is tiled and although I noted a wall-mounted TV on the wall opposite the proposed bedroom, there were no other seating areas. Nor would there be any space for such, due to the room's shape and the amount of kitchen facilities and storage units along it. It therefore felt more akin to a dining area than a living area.
24. There would likely be occasions when more than one occupant would cook and eat here at the same time, and this communal room is clearly set out for this purpose. The appellant states that the building specification includes insulation slabs in every stud wall to reduce transmission of noise between rooms, and that there is no explicit planning policy that precludes a bedroom adjacent to a kitchen in HMO accommodation. However, in my judgement the level of noise generation adjacent this bedroom would be likely to adversely harm the living conditions of its future occupiers, and I have no evidence regarding the specific performance level of the wall insulation to assuage this concern.
25. The appellant cites a lack of objection from a Council environmental health officer. I have nonetheless found that the proposed additional bedroom would fail to provide satisfactory living conditions for its future occupiers, contrary to Saved Policy H20 a) of the Local Plan for Slough. Core Policy 8 of the Core Strategy refers to the amenities of adjoining occupiers, but not future occupiers of a proposal. In this regard, there is therefore no conflict with this policy.

Conclusion

26. I have found conflict with Core Policy 4 and Saved Policy H20 a), and compliance with Core Policy 8, and Saved Policy H20 c) and d). For the above reasons, I conclude that the proposal conflicts with the development plan as a whole and the material considerations before me, including the Framework, do not indicate that a decision should be made otherwise than in accordance with it. Therefore, the appeal is dismissed.

R Cahalane

INSPECTOR