



Appeal Decision

Site visit made on 6 January 2025

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2025

Appeal Ref: APP/B0230/W/24/3349842

20 Alexandra Avenue, Luton LU3 1HG

- 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 Ben Sanders against the decision of the Council of the Borough of Luton.
 - The application Ref is 24/00168/COU.
 - The development proposed is change of use from C4 6 person HMO to Sui Generis 7 person HMO.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from C4 6 person HMO to Sui Generis 7 person HMO at 20 Alexandra Avenue, Luton LU3 1HG in accordance with the terms of the application, Ref 24/00168/COU, subject to the following 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 drawing number OAKPL-43.
 - 3) Prior to the first occupation of Bedroom 7, details of secure bicycle storage facilities shall be submitted to and approved in writing by the local planning authority. The approved bicycle storage facilities shall be installed prior to the first occupation of Bedroom 7 and shall thereafter be retained as approved for the lifetime of the development.
 - 4) The development hereby permitted shall not be occupied by more than seven residents at any one time.

Preliminary Matters

2. The second reason for refusal refers to the property being used as self-contained flats. However, the Council states in its Officer Report that the existing property is a HMO and this is reflected in the description of the development. It is also clear from the description of the development that the proposal is for a HMO and I have considered the appeal on this basis. It is not for me to determine whether or not the property is used as a HMO. Rather, my focus is simply upon whether or not the proposed use would be acceptable in planning terms.
3. The National Planning Policy Framework (the Framework) was revised in December 2024. Because the changes do not materially affect the main issues in this case, no prejudice is caused in me deciding the appeal without reverting to the parties for further comment.

Main Issues

4. The main issues are:

- the effect of the proposal on the character of the area and the living conditions of the occupants of 18 and 22 Alexandra Avenue, with particular regard to noise and disturbance from comings and goings at the property; and,
- whether the proposal would provide an adequate standard of accommodation for future occupants, with particular regard to the internal living space.

Reasons

Local character and living conditions

5. The appeal building is a semi-detached property on a residential street. The house is already occupied as a HMO for 6 residents, and no alterations are proposed to its exterior. The existing HMO inevitably generates movements to and from the property as its occupants carry out their day-to-day business, as is likely the case for other dwellings on the street. There is no substantive evidence before me to indicate the existing HMO causes noise and disturbance that would be atypical from other residential uses in the area, or that it causes undue nuisance to neighbouring residents.
6. There would inevitably be a small increase in the level of activity in and around No 20 due to the individual work and social schedule of a further occupant and related visitors and deliveries. However, the amount of comings and goings associated with a single person would be modest and would be unlikely to cause a harmful increase in noise and disturbance arising from the HMO. Moreover, even if the increased activity were to be noticed by the occupants of Nos 18 and 22, it would be domestic in nature because the property would be retained in residential use. It follows that the fundamental character arising from the proposed use would continue to be sympathetic to the residential setting, despite the small increase in the number of residents.
7. Overall, I conclude that the proposal would safeguard the character of the area and the living conditions of neighbouring residents, with particular regard to noise and disturbance from the comings and goings at the property. It follows that there would be no conflict with Policies LLP1, LLP17, and LLP25 of the Local Luton Plan 2011-2031 (November 2017) (LP) insofar as they expect developments including HMOs to preserve local character and to minimise noise.

Standard of accommodation

8. Like some of the rooms in the existing HMO, the proposed additional bedroom would contain a small kitchen area and an ensuite shower room. However, the bedrooms would be occupied as part of an HMO, and future occupants would also have access to the kitchen and living room areas on the ground floor. Furthermore, due to the small size of the kitchenettes the evidence does not lead me to conclude that the facilities in the bedrooms would provide for the full range of cooking, cleaning, and laundry needs of the occupants. Therefore, in all reasonable likelihood, the communal areas on the ground floor would form an

integral part of the accommodation that would be used by the residents of the proposed HMO.

9. The submitted plans show that each of the bedrooms would be large enough to accommodate a bed and other storage furniture for single person occupancy without impeding circulation space around the room. When combined with the communal living room and kitchen areas, as well as the external amenity space provision, there would be sufficient space within the property for the future occupiers to meet their daily needs. Moreover, given the lack of objection from the Council's private sector housing team, there is no evidence to suggest that the property would not adhere to the Council's licensing requirements.
10. I conclude that the proposal would provide an adequate standard of accommodation for future occupiers, with particular regard to the internal living space. Accordingly, there would be no conflict with Policies LLP1, LLP17, and LLP25 of the LP which, taken together, expect the HMO to be of a high-quality that conforms with adopted licensing and amenity standards.

Other Matters

11. Policy LLP17 of the LP does not specify a requirement to demonstrate there is a need for the HMO in order for the development to be supported. Moreover, because the property is already a HMO, the proposal would not result in the loss of housing stock for families.
12. I note the Council's concerns that the proposal could set a precedent for other, similar proposals to come forward. I have considered the appeal with regard to the site-specific context at the time of my decision. Those circumstances are unlikely to be identical for other potential developments, which would necessarily be considered on their own merits.

Conditions

13. The Council provided a list of suggested conditions, which I have considered against the tests set out in the Framework and the Planning Practice Guidance.
14. In addition to the standard time limit condition, I have included a condition to define the permitted plan, to provide certainty over the approved internal layout. It is not necessary to refer to the design and access statement as this does not define the proposal. I have also required bicycle parking facilities to be submitted for approval to ensure the development promotes travel by sustainable modes. However, I have altered the timing for compliance with the condition to refer to the occupation of Bedroom 7, because the existing HMO bedrooms are already occupied.
15. A condition is included to limit the number of residents to 7. This condition is necessary because it has not been demonstrated that a higher occupancy level would secure a satisfactory standard of accommodation for future occupiers, or that it would safeguard living conditions and local character.
16. Because no changes are proposed to the refuse storage arrangements for the property, it is not necessary to secure such details through condition. Moreover, in the absence of clear justification for securing details of the management and maintenance arrangements for the communal areas, I am not convinced a condition is necessary, particularly given the property is already a HMO.

17. It is also not necessary to include a condition prohibiting the use of the rooms as self-contained flats because the formal decision makes it clear the permission is for a HMO.
18. I have not included the suggested condition to remove permitted development rights to alter the external appearance of the building. In the absence of evidence to the contrary, such a condition would be unreasonable given the limitations of the permitted development rights.
19. I have not included the Council's suggested informatives because it is not necessary to duplicate other legislation and permitting regimes.

Conclusion

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

E Catchside

INSPECTOR