



Appeal Decision

Site visit made on 17 March 2025

by Andreea Spataru BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/M2840/W/24/3353773

31 Victoria Street, Burton Latimer, NN15 5QX

- 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 Abayomi Kogbe against the decision of North Northamptonshire Council.
 - The application Ref is NK/2024/0374.
 - The development proposed is described as 'the change of use from residential (C3) to 7 bedroom 7 person HMO (Sui Generis) including refuse and cycle storage'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Abayomi Kogbe against North Northamptonshire Council. This application is subject of a separate decision.

Preliminary Matter

3. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.

Main Issues

4. The main issues are:
 - Whether the proposal would provide acceptable living conditions for the future occupants with regard to the provision of the internal communal space; and
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance and linked to that, the effect of the proposal on the character of the area.

Reasons

Living conditions – future occupiers

5. The proposed change of use involves internal alterations, which would increase the existing number of bedrooms from 6 to 7, as to accommodate 7 people. As a result, the existing dining room would be converted into an additional bedroom, and the existing kitchen would be extended towards the rear of the property to accommodate both the kitchen and dining area.

6. The Council's concerns are related to the size of one of the bedrooms and that of the proposed kitchen/dining room, having regard to the proposed acoustic insulation. Reference has been made to the North Northamptonshire Council Amenity Standards 2021 (NNCAS) in this regard. The appellant indicates that the Council has no planning standards for HMOs and that the NNCAS are not adopted for planning purposes. Nevertheless, the NNCAS provide guidance regarding room sizes, to which I have had regard alongside the proposed layout. The appellant disputes the Council's figures. The submitted plans do not include room measurements, but the Design & Access Statement dated June 2024 (DAS) indicates that each of the proposed bedrooms would be approximately 6.51 square metres or larger, which implies that at least one of the bedrooms would be smaller than the 8 square metres standard outlined within the NNCAS to dispense the need for a larger internal communal space.
7. Be that as it may, the proposed layout shows that the occupiers would only benefit from communal internal space at the ground floor level, in the form of a kitchen/dining area. Apart from the sink, the plan does not demonstrate how the essential facilities in terms of kitchen furniture, appliances and dining space would be accommodated to satisfy the everyday needs of 7 people. This is particularly important given the constraints of the room, which is long and narrow. Accordingly, even if the kitchen/dining area was appropriately sized, the proposal fails to demonstrate that adequate communal internal space can be provided and thus acceptable living conditions for the future occupiers cannot be achieved in this regard. The rear garden would provide additional communal space; however, this would be external space, and thus weather dependant, and not sufficient to mitigate the inadequacy of the internal communal space.
8. The inadequate internal communal space would confine the future occupiers to their bedrooms. The proposed plans show bedrooms of various sizes and layouts. The lack of appropriate internal communal space would be particularly detrimental to those occupying the smaller bedrooms.
9. The appellant relies on a fallback position, which relates to the change of use from dwellinghouse (Class C3) to a 6 bedroom 6 people HMO (Class C4) under Class L, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). My attention has been drawn to two judgements¹, which concern the materiality of a fallback position. In this regard, the appellant states that there is a strong prospect of implementing the fallback scheme and I have little reason to find otherwise. Nevertheless, the degree of weight to be given to the fallback position also depends on whether or not the fallback position would be equal to or more harmful than the scheme proposed.
10. The fallback scheme differs from the appeal proposal, as the existing plans show that the property is able to accommodate 6 bedrooms, while having a kitchen and a separate room as dining area. The dining room is of appropriate size and layout, with direct access to the rear garden. As such, given the layout of the fallback scheme, adequate internal communal space would be provided for 6 occupiers. Consequently, the proposal would be more harmful than the fallback scheme. As such, with regard to the living conditions of the future occupiers, the fallback

¹ Mansell v Tonbridge & Malling Borough Council [2016] EWHC 2832 (Admin) (10 November 2016) & Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314 (08 September 2017).

scheme does not weigh in favour of permitting the appeal proposal, rather the opposite.

11. In conclusion, the proposal would not provide acceptable living conditions for the future occupiers due to inadequate internal communal space. Therefore, the development would be contrary to Policy 8 of the North Northamptonshire Joint Core Strategy 2011-2013 adopted 2016 (CS), which requires developments, amongst other things, to ensure quality of life and safer and healthier communities. Whilst this policy does not refer specifically to HMOs, it is relevant for the proposal as it reflects the aims of the Framework, which at paragraph 135 states that developments should provide high standards of amenity for existing and future users.

Living conditions – neighbouring residents & character of the area

12. The appeal property is located within Burton Latimer Conservation Area (BLCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect, national policy on heritage assets is set out in the Framework. At paragraph 203 it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness. Policy 2 of the CS reflects this statutory duty.
13. The Burton Latimer Conservation Area Appraisal 2009 (BLCAA) indicates that the appeal site forms part of the Industrial Core. The BLCAA states that this character area includes the areas of Burton Latimer that were developed in the late 19th and early 20th century, which have a typically Victorian urban form by way of a grid pattern, with tightly-packed, high density, red-brick terraced workers' houses, interspersed with factories. The proposed change of use would retain both the appearance of the building and the high-density, thus it would preserve the character and appearance of the BLCA.
14. The Council states that the proposal would lead to an increase in noise and general disturbance, and reference was made to a high turnover of occupants. I acknowledge that the proposed change of use could lead to an intensification in the level of activity and a potential increase in the level of noise due to occupants having different individual schedules than those of a family. To mitigate any potential increase in noise, sound insulation measures are proposed. Given the small difference that one additional occupant would make, when considered in relation to the fallback scheme, it would be unlikely to lead to an unacceptable level of noise or disturbance, including from additional comings and goings.
15. Accordingly, given the specific circumstances of this case, including the high-density nature of the area, I find that the development would not cause such a high level of noise and disturbance that would result in unacceptable harm to the living conditions of the occupiers of neighbouring properties. I am satisfied that the proposal would preserve the character and appearance of the BLCA, thus it would meet the statutory requirements of the Act. Consequently, there would be no conflict with Policies 2 and 8 of the CS, in these regards. However, this does not negate the harmful impact that the development would have on the living conditions of the future occupiers.

Other Matters

16. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The proposal would accommodate a slightly larger number of occupants, who could be vulnerable tenants, such as asylum seekers, than the fallback scheme. However, as identified above, this would be to the detriment of the living conditions of the future occupiers as the development would fail to provide high standards of amenity, as required by the Framework. Accordingly, for these reasons it does not follow from the PSED that the appeal should succeed.
17. The appellant has drawn my attention to several applications² that were approved by the Council. I do not have full details of those cases, but from the evidence outlined within the DAS, the main issue identified in those cases was parking provision and that is not a matter of dispute in this case. As such, they are not directly comparable. Specific reference was made to the approved development at 4 Church Street. The floor plan for this property has been outlined within DAS; the proposal is not directly comparable with that development, because in that case the kitchen has a different layout, and there is also a separate laundry area, which accommodates some of the facilities that would have had to be included within the appeal property's kitchen. Reference was also made to a development allowed at appeal³, regarding the effect of the HMO on the living conditions of neighbouring residents. Whilst I have had regard to the appellant's examples, it has not been demonstrated that they are directly comparable with the proposal. Accordingly, I have considered the appeal scheme based on its own merits and site-specific circumstances.
18. The changes in terms of high-performance double glazing, insulation, and low energy light bulbs, as well as the accessible location of the property, would benefit future occupiers. Nevertheless, these elements do not outweigh the harm I have identified.
19. The lack of objections from the HMO licensing team and the Council's Environmental Health Officer is a neutral matter rather than one that carries positive weight for the development.

Conclusion

20. For the reasons set out above, the appeal should be dismissed.

Andreea Spataru

INSPECTOR

² LPA refs: NK/2023/0254, KET/2019/0130, NK/2022/0759, NK/2023/0291

³ Appeal ref: APP/N1350/W/22/3290187