



Appeal Decision

Site visit made on 21 October 2025

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/T3725/W/25/3367884

29 Westlea Road, Leamington Spa, Warwickshire CV31 3JJ

- 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 Mrs D Kaur against the decision of Warwick District Council.
 - The application Ref is W/25/0320.
 - The proposed development is the change of use of a house to a house in multiple occupation.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the house to a house in multiple occupation (Use Class C4) at 29 Westlea Road, Leamington Spa, Warwickshire CV31 3JJ, in accordance with the terms of the application reference W/25/0320, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan ref PP-13813157v1 and Floor Plan ref 2341/1/A.

Procedural Matter

2. The description of the proposal in my banner as a house in multiple occupation ('HMO') is taken from the application form. However, in the Council's decision notice, and on the title page of the appellant's statement, the proposed use is described as a 5 bed HMO (Use Class C4).
3. Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) concerns the use of a property as an HMO by three to six unrelated individuals as their only or main residence, and who share basic amenities. In the interests of clarity and precision, I have therefore referred to Use Class C4 in my formal decision.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of adjacent occupiers, with particular regard to noise and disturbance at 2 Southlea Avenue.

Reasons

5. Policy H6 of the Warwick District Local Plan 2011-2029 (2017) ('WLP') sets out the issues that it considers are typically associated with concentrations of HMOs,

- including noise, anti-social behaviour, increased street parking, poor property maintenance, and poor attendance to waste storage. In order to prevent unacceptable adverse impacts, it therefore seeks to control concentrations of HMOs at a neighbourhood, and a more localised, level.
6. The host is an end of terrace property, which is next to a dwelling situated on a spacious corner plot at 2 Southlea Avenue ('No 2'). The Council states that whilst the proposed change of use would not result in an unacceptable concentration of HMOs in the neighbourhood, and that the scheme would therefore comply with the criteria at WLP Policy H6 part a), it would result in a localised concentration as No 2 would be 'sandwiched' between two HMOs, contrary to its part c).
 7. In support of that, it says that 4 Southlea Avenue ('No 4'), along with Nos 4A and 6 Southlea Avenue, are HMOs, which have been in use prior to the introduction of its Article 4 Direction¹, and which are therefore lawful. The appellant disputes this, and claims that, in the absence of planning permission, or a lawful development certificate², it is unclear whether No 4 is operating lawfully as an HMO.
 8. The Council has produced no cogent evidence to support its claim that No 4 is currently occupied as an HMO, that it has been continuously occupied as an HMO for 10 years or more, or that its HMO use is lawful. Given the conflicting and unsubstantiated assertions by both principal parties, I am therefore unable to reach a meaningful conclusion on this matter. However, if No 4 is not an HMO, then there would clearly be no conflict with WLP Policy H6 part c).
 9. In the alternative scenario, if No 4 is an HMO then, as a result of this scheme, No 2 would have an HMO to one side and to the rear. However, whilst the term 'sandwiched' is not defined in WLP Policy H6, it would ordinarily imply something located directly between two other things to either side, which would not be the arrangement here. Moreover, as there would be no alterations to the external appearance of the host, No 2's rear elevation, and its small and enclosed rear amenity space, would continue to face the host's blank side walls. No 2 also has a larger, albeit less private, outdoor space to the side, which is further from the host's rear outdoor amenity area, and which has an open aspect over the road junction.
 10. The host's patio would be conveniently accessed from the proposed lounge, and is therefore likely to be the most intensely used part of the property's outdoor space. That space is to the rear and off-set to one side of the plot, well away from the boundary with No 2, and it is separated from that property by the host's single storey rear projection. The remainder of the host's rear garden does not share a boundary with No 2.
 11. As the host would remain a five bedroom property and the number of occupants would be limited, I am not persuaded that there would be markedly increased vehicular or pedestrian movements to or from it as a result of this scheme; and I have no cogent evidence that the use of the property as a small Use Class C4 HMO would generate significant anti-social behaviour.
 12. Thus, in this alternative scenario, whilst there would be an HMO to one side and to the rear of No 2, its other side would remain open, and I am not persuaded that it would be 'sandwiched' between such uses. Moreover, given the specific context,

¹ See Appendix 1 of the appellant's statement

² Under section 191 of the Town and Country Planning Act 1990

and the siting and layout of the host relative to No 2, the proposal would not result in a harmfully adverse impact on the adjacent occupiers' living conditions and amenities as a result of additional noise and disturbance.

13. The Warwick Parking Standards Supplementary Planning Document sets out the same guideline of three off road car parking spaces for a five bedroom house and a five bedroom HMO. According to the Council, the property is within 400 metres of a bus stop. The occupants would not therefore necessarily require a car. For these reasons, I am satisfied that, compared to the existing use, the proposal would not add significantly to inconsiderate parking and on-street parking pressures, or significantly impede access by emergency vehicles.
14. Finally, there would be a dedicated internal area for the storage of bins, with a space depicted on the site plan to the side and rear to enable them to be wheeled roadside for collection; and as the host's rear downstairs bedroom would continue to have a window facing the patio, the occupant would be provided with sufficient natural light.
15. Summing up, from the limited and conflicting information before me, and having regard to WLP Policy H6 part c), I cannot be certain whether or not No 4 is lawfully an HMO, and therefore whether the scheme would result in No 2 having an HMO both to the side and to the rear. However, given the site specific context and the details of the proposal, I am satisfied that it would not conflict with the stated purpose of WLP Policy H6 to prevent unacceptable adverse impacts on amenity; or with the broadly similar stance in WLP Policy BE3.
16. In reaching my conclusion, I have had regard to appeal decisions involving HMOs elsewhere in the district referred to by the Council³, including the response by the appellant in her final comments. However, in comparison to this scheme, in the case of 5 Binswood Street, the built form and grain of surrounding development would appear to be much tighter; and in the case of 21 Staunton Road the scheme would have resulted in 19 Staunton Road having an HMO to either side.
17. I have considered suggested conditions against the tests in the National Planning Policy Framework. As well as the standard time limit, in the interests of certainty, a condition is necessary requiring that the development be carried out in accordance with the approved plans. Given the details of the scheme, the statutory biodiversity net gain condition is not applicable.
18. Having considered the proposal in this location on its planning merits, and having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR

³ APP/T3725/W/24/3341129 and APP/T3725/W/17/3175915