



Appeal Decision

Site visit made on 18 December 2012

by T M Smith BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 February 2013

Appeal Ref: APP/D1780/A/12/2182572

6 Denbigh Gardens, Bassett, Southampton, Hampshire SO16 7PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Devinder Sidhu against the decision of Southampton City Council.
 - The application Ref 12/00684/FUL dated 22 March 2012, was refused by notice dated 26 July 2012.
 - The development proposed is change of use from a C3 dwelling to a house in multiple occupation (HMO, Class 4).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In the interests of precision, I have determined the appeal on the basis of the description on the appeal form rather than that on the application form.

Main Issues

3. The main issues in this case are:
 - the effect of the proposal on the character of the area;
 - the effects on the living conditions of adjacent residents, having particular regard to noise and disturbance; and
 - whether or not harm would arise from the loss of a family home.

Reasons

4. The appeal property is located within a cul-de-sac comprising mainly large detached family dwellings in a low density suburban setting. The appeal property is an extended 5 bedroom dwelling with integral garage and on-site parking for 2 cars.
5. Saved policy H4 of the Southampton LPR¹ states that permissions for conversions to HMOs will only be permitted where, amongst other things, they would not be detrimental to the overall character of the area or the amenities of nearby residents. The Council's SPD² in respect of HMOs provides further

¹ City of Southampton Local Plan Review adopted version March 2006

² Southampton Local Development Framework – Houses in Multiple Occupation Supplementary Planning Document – March 2012

clarification to the policy. The SPD was published following the implementation of a City-wide Article 4 Direction which removed permitted development rights for the conversion of dwellings to HMOs.

6. In order to positively manage amenity and character impacts associated with HMOs and their concentrations, together with the need to maintain balanced communities within the city, a two tier threshold limit for HMOs is applied across the City³. A 10% threshold has been identified for the northern area in which the appeal site falls and is subsequently applied through a radius based assessment of HMOs within a distance of 40 metres from an application site.
7. At the wider ward level, the 10% threshold has already been exceeded at 10.4%⁴. Notwithstanding this, the threshold is required to be applied using the radius based assessment. In this respect, the Council considers there to be no HMOs within 40 metres of the appeal property, a matter disputed by neighbours and the East Bassett Residents' Association. I do not consider that there are any HMO uses within 40 metres of the appeal site. I appreciate the concerns of residents in relation to properties they identify as being "vulnerable", however, it would not be reasonable to base the 10% threshold calculation on how a dwelling may or may not be used in the future. The threshold has not, therefore, been exceeded within the prescribed radius.

Character of the area

8. The thresholds outlined in the SPD are applied with the caveat that other material considerations "*such as intensification of use, highway safety, residential amenity of future and existing occupiers*" are to be assessed in accordance with any other relevant policies and guidance published by the Council. Accordingly, the proposal falls to be considered alongside policy H4, as outlined above. Paragraph 5.4.2 of the SPD identifies aspects of rented HMO accommodation which can lead to amenity and character issues and include: on-street parking pressure; poor refuse management; neglected gardens; and lack of maintenance to housing stock. In having regard to these aspects, I have taken into account the wider ward in which the threshold has already been exceeded.
9. The proposal would facilitate occupation for up to 6 persons and as no internal or external alterations are proposed, the building itself would not appear to be visually different from the existing dwellings thereby causing no material harm to the street scene.
10. Three car parking spaces can be provided on site and up to two parking permits are available for occupants. This is not significantly different from any other properties in the cul-de-sac. There are concerns locally in respect of the potential parking demands of the property, if fully occupied, and given proximity to the University. However, the proposal meets adopted parking standards and no objections have been raised by the Council's Highway Officer. Given the level of parking that can be provided as well as the public transport opportunities close by along with cycle storage capable of being provided on the site, I see no reason to take a different stance.

³ Section 6.5, paragraph 6.5.1 Southampton Local Development Framework – Houses in Multiple Occupation Supplementary Planning Document – March 2012

⁴ Table 1 Distribution of HMOs, Southampton Local Development Framework – Houses in Multiple Occupation Supplementary Planning Document – March 2012

11. In terms of refuse management, the Council confirmed in the committee report for the original planning application, that the proposed use would not generate any different bin storage requirements. In addition, it was confirmed that provision could be accommodated on the site. Nevertheless, notwithstanding the possibility of any occupants of any property exhibiting poor waste management through leaving bins on the street, this is a recognised and established problem with HMOs. Whilst I appreciate that there are HMOs within walking distance of the site, in the context of the existing character of Denbigh Gardens, I consider the increased likelihood of bins being left on the street as a result of appeal proposal would be very noticeable and harmful to the character of the area.
12. In conclusion on this issue, the introduction of a HMO at this location would have the potential to cause material harm to the character of the area and therefore fails to comply with policy H4 of the LPR, paragraph 6.5.1 of the SPD. In addition the proposal fails to accord with paragraphs 17 and 58 of the National Planning Policy Framework which requires developments take account of the different roles and character of different areas as well as ensuring developments function well and add to the overall character of an area.

Living conditions of adjacent residents

13. The Council and local residents share the view that the occupation of a HMO by individuals manifests itself differently from the occupation of a property by a typical family in terms of the potential for nuisance associated with noise and anti-social behaviour; increased comings and goings of both occupants and their visitors; neglected gardens; and lack of maintenance to housing stock. I consider that such behaviour and activities, whilst not inevitable, are much more likely to occur in connection with an HMO than a typical family dwelling. The noise and disturbance likely to arise from this would be in stark contrast to the living conditions currently enjoyed by the settled and established residents of Denbigh Gardens, as family households
14. In conclusion on this issue, the proposal would have significant potential to compromise the living conditions of the residents of adjacent properties. Consequently, I find that the proposal conflicts with policy H4 of the LP and paragraph 6.5.1 of the SPD. Further, there is conflict with paragraph 17 of the Framework which requires as a core principle, that planning always seeks a good standard of amenity for all existing and future occupants of land and buildings.

Loss of a family dwelling

15. The Council have expressed concern in respect of the loss of a family dwelling for which they contend is proven demand referring to Policy CS16 of the Core Strategy⁵ which seeks to provide a mix of housing types and more sustainable and balanced communities. Notwithstanding that the 10% threshold is only marginally exceeded in relation to the Bassett ward, the proposal undermines the objectives of both policy CS16 and the SPD and would alter the balance in the housing mix.
16. Accordingly, and noting the absence of any arguments to the contrary from the appellant, I consider that the proposal would result in the unacceptable loss of

⁵ Local Development Framework Core Strategy Development Plan Document – adopted version 20 January 2010

a family dwelling in conflict with policy CS16, the objectives of which are also reflected in paragraph 17 of the Framework.

Other matters

17. I have sympathy with the appellant who has had difficulty selling the house which is now too big for her, but I consider this does not justify the proposal given the harm I have found it would have the potential to cause.

Conclusion

18. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

T M Smith

INSPECTOR