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Appeal Decision

Site visit made on 24 August 2004

by David Stephenson OBE BSc(Eng) CEng MICE

an Inspector appointed by the First Secretary of State

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Date

06 SEP 2004

Appeal Ref: APP/Q0505/A/04/1142817
5 Ferndale Rise, Cambridge, Cambridgeshire CB5 8QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
- The appeal is made by Miss K Murray against the decision of Cambridge City Council.
- The application Ref: C/03/1134/FP, dated 15 October 2003, was refused by notice dated 17 December 2003.
- The development is described as the change of use as single dwelling to HMO (retrospective).

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. The dwelling has already been in use as a house in multiple occupation (HMO) and I am dealing with this case on the basis that it is seeking authorisation for the change of use.

Main Issues

2. I consider that the main issues in this case are the effect of the development firstly on the character and appearance of the surrounding area, and secondly on the living conditions of occupiers of adjacent dwellings in terms of noise and disturbance.

Planning Policy

3. Section 54A of the Act requires that planning applications and appeals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan includes the Cambridge Local Plan adopted in 1996 within which I consider that Policies HO10, HO12, E01 and TR22 are relevant to this case. Policy HO10 outlines the circumstances where HMOs would normally be permitted, in which case Policy HO12 indicates criteria against which proposed HMO development would be assessed. Policy E01 seeks to prevent development, including changes of use, that amongst other things would cause noise affecting existing nearby residential areas.

4. The Council has issued its *Housing Development & Design Guide* dated 2001 which is described as Supplementary Planning Guidance (SPG). Although I have not been informed of its status with reference to public consultation I consider its contents regarding waste and noise nuisance as reasonable and can attribute significant weight to these aspects. SPG has also been issued for *Car and Cycle Parking Standards*, superseding the standards in the Local Plan referred to in Policy TR22. I understand this has undergone a 2-stage consultation process and was adopted in 2003 so I can attribute considerable weight to its contents.

Reasons

5. Ferndale Rise is a short cul-de-sac of 2-storey residential properties. It is not an area of mixed use or a main road and in these respects the use of the building as an HMO would not meet 2 of the circumstances listed in Policy HO10. The appeal property is a 2-storey semi-

detached dwelling that has been extended at full height to the common boundary with the adjacent property, No 4, abutting the garage of this dwelling, and extended at single storey across the full width at the rear. The buildings along this side of the road are in close relationship with each other and there is no space between the appeal property and the 2 properties on either side of it.

6. At the time of my visit the accommodation within the house consisted on the ground floor of a bedroom and 2 further habitable rooms in use by the Appellant, a hallway leading to a galley kitchen leading in turn to the rear garden, 2 further bedrooms and a bathroom. On the first floor there were 5 rooms in use as bedrooms, and a bathroom. In all 8 rooms were in use as bedrooms, although the plans showed that one of the Appellant's rooms was intended as a bedroom which would make a total of 9.

7. Turning to the criteria in Policy HO12, there is no explicit guidance for cycle parking for an HMO in the Council's SPG, but the Council has suggested 8 cycle parking spaces. Bearing in mind the expected occupiers I do not consider that this is unreasonable, taking account of the guidance for cycle parking for both residential dwellings and student residential accommodation in the SPG. Apart from 2 low metal rails embedded in the ground in the front garden, however, there was no cycle parking, and none that meets the advice in the SPG for a parking stand that gives good support and a convenient place to secure the cycle frame. Even if there was, in my opinion it would look out of place in a residential road. Cycles can be taken through the house via the hall and kitchen to the rear garden for better security, but in my view this is an unsatisfactory and inadequate solution. The lack of provision for cycle parking is inconsistent with the requirement of Policy HO12(c).

8. I noted 3 general-waste and one recyclable-waste 'wheelie' bins in the front garden. Although these may be sufficient to cater for the waste generated, they were conspicuous in the appearance of the street and there was nowhere to place them out of sight. I do not consider that there is adequate refuse storage space provided as required by Policy HO12(d), and in my opinion this harms the appearance of the area. I conclude on the first main issue that the development is detrimental to the character and appearance of the surrounding area.

9. Turning to the second main issue, the house does not appear to have any communal living area for occupiers to eat, relax or entertain visitors. The consequence in my view is for bedrooms to be used by individuals for general living purposes. Some of the rooms abut rooms in the adjoining house, but there is no evidence that any soundproofing has been, or is intended to be, installed. In addition to this noise source, the intensive use of a relatively small semi-detached house close to neighbouring properties would generate more disturbance through comings and goings and more noise in general than would a lawful use within Class C3 (Dwellinghouses) as defined in the Town and Country Planning (Use Classes) Order 1987. In my opinion this would be intrusive for occupiers of neighbouring dwellings and I conclude on the second main issue that this would be harmful to the living conditions they could reasonably expect to enjoy. This is inconsistent with LP Policies HO12(e) and E01(b).

10. The Council have indicated that the proportion of HMOs in the surrounding area is not excessive and that the matter of communal living space for shared dwellings is not relevant to this case and I see no reason to disagree. There is a small garden to the front of the building that is laid to gravel and in my view this could only readily accommodate one car. Again the SPG does not cover car parking standards in the case of an HMO, but the Council has indicated that 2 car parking spaces would be required. I note, however, that the standards in any case define a maximum level of car parking, and I place some weight on the Appellant's submission that the occupiers of the house would normally be students without cars, so I consider that the space available would be adequate. Despite there being

no inconsistency with Criteria (a) and (b) of Policy HO12, and my conclusion that car parking provision would be adequate, these are insufficient in my opinion to outweigh the harm I have identified above and the conflict with the remainder of Policy HO12.

11. The consequences of intensification of use of the building as a result of multiple occupancy, as I have identified at paragraphs 7-9 above, in my view creates an impact that can not be readily absorbed in this residential area. In this third respect, together with the previous 2 I have identified, the use of the building as an HMO does not fall within the circumstances normally acceptable in accordance with Policy HO10.

12. I conclude that the development is detrimental to the character and appearance of the surrounding area and to the living conditions of occupiers of adjacent dwellings due to unreasonable noise and disturbance. I further conclude that it is in conflict with Local Plan Policies HO10, HO12 and E01.

Other Matters

13. I note the other matters raised by the Appellant. I am not aware of the circumstances under which other HMOs not on main roads may have been allowed, but in any case their existence does not in my view outweigh the harm in this case. Although other properties in Ferndale Rise may be rented out this does not stop the road being residential, there being no properties with other lawful uses. Ditton Walk may be mixed use, but in my view the commercial and industrial properties are too far away to have any material bearing on the use of the appeal dwelling. The lack of complaint from neighbours does not necessarily indicate that development is not harmful, and I have determined this case on its own merits based on my observations and the information before me. Approval of work under regulations other than planning does not itself convey any tacit planning permission. If the Appellant feels that she has established a lawful use over an extended period of time then this is matter that should be taken up with the local planning authority in the first instance possibly in the context of an application for a Certificate of Lawful Use or Development under Section 191 of the Town and Country Planning Act 1990, as amended.

Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Formal Decision

15. I dismiss the appeal.

INSPECTOR