



Appeal Decision

Site visit made on 30 April 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2019

Appeal Ref: APP/R4408/W/19/3222977

12-14 Eldon Street North, Barnsley S71 1LG

- 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 Mr D Appleby against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2018/0946, dated 24 July 2018, was refused by notice dated 20 September 2018.
 - The development proposed is a change of use from A1/B1 to Sui Generis Proposed 8 Bedroom House of Multiple Occupation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council adopted the Barnsley Local Plan (BLP) on 3 January 2019. As a result, the policies that are cited in the reasons for refusal on the Council's decision notice have been superseded by policies within the BLP. The appellant has had the opportunity to comment upon their relevance and accordingly, no parties have been prejudiced by my having regard to them.
3. The Council's Supplementary Planning Document – Designing New Housing Development (New Housing Development SPD) (March 2012) is in the process of being reviewed (Consultation Draft 2019) following the adoption of the BLP. Nevertheless, the New Housing Development SPD (2012) sets out specific criteria that are relevant to this case. It is therefore a material consideration, which I have taken into account in assessing the proposal.
4. On 19 February 2019, the Government published an updated revised version of the National Planning Policy Framework (the Framework). In relation to the main issues in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to it.

Main Issues

5. From the representations submitted and my inspection of the site, the main issues in this appeal are:
 - Whether the proposal would provide an appropriate housing mix and;
 - The effect of the proposal on the living conditions of neighbouring occupiers with particular regard to overlooking and whether or not it would provide satisfactory living conditions for future occupiers.

Reasons

Housing mix

6. Eldon Street North and the streets that adjoin it are characterised by rows of traditional stone two-storey terraced dwellings of similar appearance that are modestly set back from the road, with small gardens/yards to the rear. The immediate area, which lies on the edge of the town centre, is predominantly residential with some commercial uses along the street, particularly near road junctions.
7. The appeal property, situated on the corner with Bridge Street, is presently vacant but it was formerly an insurance brokers on the ground floor with office space above. The second floor was utilised for storage. The appeal proposal would change its use to an 8-bedroom house in multiple occupation (HMO). A shared kitchen/living area would be provided on the ground floor along with two bedrooms sharing a WC/shower room. The first and second floors would be converted into six bedrooms, of which three would be en-suite and the remainder would share a WC/shower room.
8. Policy H6 of the BLP relates to housing mix and the need for housing proposals to include a broad mix of house size, type and tenure. This is consistent with guidance within the Framework that the housing needs of different groups in the community should be reflected in planning policies. Policy H6 indicates that proposals to change the type of existing stock must maintain an appropriate mix of homes. In this case, the proposal is a change from a commercial use to an HMO so that it would not affect the existing supply.
9. The supporting text to H6 states that it relates to new housing and, furthermore, that mix should be informed by the up-to-date Strategic Housing Market Assessment (SHMA) for the entire housing market area and the needs of the market. I have nothing before me to determine what these needs might be in the context of the appeal site, although from my observations on site, terraced dwellings appear to form the predominant type of housing within the immediate locality. The HMO would therefore offer a different type of residential accommodation.
10. A subsequent Prior Approval for the conversion of the appeal site to residential use under Use Class C3 is deemed by the Council to accord with Policy H6. I appreciate that it would provide both a 2 bed and 3-bedroom unit, but I have no evidence to explain why this is more appropriate having regards to the SHMA and needs of the market.
11. Furthermore, whilst I acknowledge that a third-party representation refers to the number of HMOs already in the area, I have nothing to substantiate this assertion, other than noting the appellant's evidence that the HMO register does not detail any licensed HMOs on nearby streets, including Eldon Street North, Bridge Street, James Street and Mottram Street.
12. The proposed HMO would deliver 8 single bedrooms of the same type. The rooms would not be self-contained, and residents would share basic amenities such as the kitchen and, in some cases, a bathroom. To that extent, I concur with the appellant that, as a whole, it would share the characteristics of a single planning unit. I am therefore not persuaded that a standalone HMO could address housing mix in its own right.

13. For these reasons, on the evidence before me, I find no conflict with Policy H6 of the BLP, which seeks to provide a variety of house size, types and tenure to contribute towards mixed and balanced communities within the context of the entire housing market area and the needs of the market.

Living conditions

14. Having regard to the effect of the proposal on the living conditions of neighbouring occupiers, the South Yorkshire Residential Design Guide (SYRDG) (2011) recommends a minimum distance of 10m between first floor windows and the boundary of any private garden that they would face. I acknowledge that the SYRDG applies specifically to 10 or more dwellings but in its introduction, it clarifies that many of the guidelines are also appropriate to smaller developments and it provides a point of reference.

15. In this case, the rear boundary would be 6m away, below the guidance within the SYRDG. However, it is an existing relationship as a consequence of historic development. Moreover, the first-floor windows of the appeal property principally face towards the flank elevation of the dwelling at 2 Bridge Street with only an oblique view to the garden of this property. For this reason, even if the HMO would result in an increase in activity compared to a family dwelling, I consider that there would be no harmful effect to the living conditions of neighbouring occupiers in respect of overlooking.

16. Turning to the living conditions of future occupiers of the proposal, I do not consider the bedrooms within the appeal property to represent 1-bedroom flats on the basis that the rooms are not self-contained. Nevertheless, the Council's New Housing SPD (2012) confirms that internal spacing standards for HMOs should meet the requirements set out in the general criteria, which are identified to be within the SYRDG. In its use, I concur with the findings of the appeal decision¹ cited by the Council that the SYRDG provides best practice guidance rather than formal policy, remaining as relevant guidance following the adoption of the new Local Plan.

17. Following the appellant's position that the appeal premises would be a single property with multiple bedrooms, the SYRDG would require a single bedroom to be a minimum of 7m². In this case, the bedrooms would range from 9m² to 15m² and would accord with the SYRDG in this regard. They would also meet the one bedspace minimum set out in the government's Technical Housing Standards – Nationally Described Space Standards (NDSS) (2015).

18. In relation to the criteria for floor areas within the HMO Licencing Regime² cited by the appellant, I appreciate that these are specific to HMOs. However, its purpose is principally to establish the minimum standards for securing an HMO licence. Whilst the bedrooms would meet the conditions set out in relation to floor areas, it constitutes separate legislation. It also relates only to rooms used as sleeping accommodation rather than considering the acceptability of the space for day-to-day living.

19. In this context, the SYRDG recommends that bathrooms should be 3.5m² minimum. Those within the HMO proposed would range between 1.6m² and 2.3m² falling significantly below the standard. For kitchen/dining/living areas,

¹ Appeal Decision Ref: APP/R4408/W/18/3200276

² The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 SI 2018 No.616

the SYRDG recommends that it should be at least 30m² for a smaller 3 bed/4 person dwelling, applicable to a larger house also. The communal kitchen/living/dining area would be 25m², below the minimum standards. Furthermore, the kitchen layout indicates one hob, one sink and four chairs along a bar bench style seating/eating area whilst the living area would provide space for one sofa. I consider that this communal space would be inadequate to serve the needs of eight individuals, even taking into account that they may not always use the space at the same time.

20. The yard provision, at approximately 47m² would also be below the guidance for either a larger 3 bedroom+ house or shared private space within the SYRDG. In respect of laundry facilities, I have nothing before me to demonstrate that it could be provided internally, either within the basement or within the kitchen/living space. In any event, from my observations, whilst the rear yard would provide some opportunity for sitting out and hanging out clothes, it would nonetheless be very limited in its provision for 8 individuals.
21. Taken together and having regard to the SYRDG as a guide to achieving a good standard of accommodation, both the communal kitchen/living/dining area and the external garden/yard would, in my view, be limited for 8 occupants. The bathrooms would also be small, particularly as five of the occupants would have to share two of these shower/WC rooms. These factors combine to create a poor standard of accommodation.
22. For these reasons, I conclude that the proposal would fail to provide satisfactory living conditions for future occupiers. It would therefore be contrary to Policies GD1 and D1 of the BLP. These policies, amongst other matters, seek to ensure that proposals for development have no adverse effect on the living conditions of future residents and are of a high quality in order to contribute to a healthy environment. It would also conflict with the objective set out at paragraph 127 of the Framework to create places with a high standard of amenity for existing and future users.

Planning Balance and Conclusion

23. The Council's Statement of Case, upon which the appellant has had the opportunity to comment, confirms that following the adoption of the BLP, it is now able to demonstrate a 5-year housing land supply. Consequently, the tilted balance through paragraph 11(d) of the Framework is not engaged.
24. Nevertheless, I recognise that the appeal site lies within an accessible location where residential development is acceptable in principle. It would also make better use of a building that has been vacant for approximately two years. Furthermore, I acknowledge that the Government seeks to boost significantly the supply of housing to which the accommodation would contribute to a degree. These factors weigh in its favour. However, whilst I find that the scheme would provide a sufficient housing mix, the benefits of the proposal are outweighed in this instance by the failure to provide satisfactory living conditions for future occupiers.
25. For these reasons, I conclude that the appeal should be dismissed.

Kate Mansell

INSPECTOR