



Appeal Decision

Site visit made on 6 February 2018

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2018

Appeal Ref: APP/P2365/3188723

132 Redgate, Ormskirk L39 3NY

- 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 Griffin-Lea against the decision of West Lancashire Borough Council.
 - The application Ref 2017/0493/FUL, dated 5 May 2017, was refused by notice dated 31 July 2017.
 - The development proposed is change of use of dwelling to a five bedroomed student HMO.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to a five bedroomed student house in multiple occupation at 132 Redgate, Ormskirk L39 3NY, in accordance with the terms of the application, Ref 2017/0493/FUL, dated 5 May 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three 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 2439/loc; Existing Plan 2439/E; Proposed Plans 2439/1.
 - 3) The property shall not be occupied by more than five residents at any one time.
 - 4) The car spaces to be provided shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.

Application for costs

2. An application for costs was made by Mr Griffin-Lea against West Lancashire Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. From my site visit I could see that some internal changes proposed as part of the development had been partly implemented. I have based my decision on the submitted plans.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupants of neighbouring properties with particular regard to noise and disturbance.

Reasons

5. The appeal property is a four bedroomed semi-detached house within a residential area of Ormskirk. The properties on the street are mainly semi-detached houses, or dormer bungalows and would be attractive to families. To the rear of the property there is a strong line of trees and behind those, a large property in its grounds, which is accessed off Cottage Lane.
6. The appeal property has been extended to the rear at ground floor and to the side over the garage. It has a rear garden of a similar size to the other properties on this side of Redgate. The proposal is to change the use of the property to a five bedroomed house in multiple occupation. The proposal involves converting the existing integral garage to a bedroom.
7. The appeal site lies within an area of Ormskirk which is subject to an 'Article 4 Direction'. This makes it necessary to obtain planning permission to change the use of a family house to a house in multiple occupation (HMO), and it was introduced specifically to help manage pressure for student accommodation in the town arising from Edge Hill University. The University is around 1.2 miles from the appeal property.
8. Policy RS3 of the *West Lancashire Local Plan* (the Local Plan) indicates that when considering proposals such as this, the Council will have regard to the proportion of existing residential properties in use, or with permission to become, an HMO in the street either as a whole or the nearest 60 properties in the same street. In accordance with the policy the proportion to be applied to Redgate is 5%.
9. According to the Council, there is only one authorised HMO in Redgate, a street of 174 properties. That property is number 42 Redgate, which is some distance away from the appeal property. The proposed development would therefore not cause the 5% figure to be exceeded. Consequently the proposed development accords with Policy RS3 of the Local Plan.
10. Policy GN3 of the Local Plan sets out criteria for sustainable development. Criterion (iii) of that policy requires that proposals for development retain or create reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the proposed and neighbouring properties.
11. The proposal has generated considerable concern from local residents. The County Council's highway officers have advised that the proposal would not raise any highway safety concerns and with three off site spaces provided, parking standards would be met. It is inevitable that there would be a degree of noise and disturbance arising from the use of cars by the residents of the proposed HMO but I have no evidence to suggest that this would lead to any more noise and disturbance than a typical family home on the street.
12. With five adults coming and going there would likely to be general noise and disturbance. Whilst I accept that some properties on the street may be occupied by elderly persons, most housing tends to be of the family type.

Indeed this point has been made by many of the residents. I consider that the noise and disturbance from students coming and going would not be significantly different to that from a large family where there would be potentially be journeys to work, school and social events.

13. If the students were based at Edge Hill, it is possible that there could be car sharing particularly given the University's parking policy which requires students to obtain a permit and does not allow students living within around three miles from the University, to park on campus. I therefore consider that the comings and goings as a result of the proposed development would not be likely to lead to undue harm to the occupants of the neighbouring properties by virtue of noise and disturbance. I consider that other potential forms of noise and disturbance such as the playing of loud music, partying, or social activity in the garden would not necessarily be any more likely to cause harm to neighbouring residents than would be the case with a large family.
14. The Inspector who determined the appeal at Marians Drive¹ had clear evidence of observations of anti-social behaviour relating to existing HMOs near to that appeal property. That anti-social behaviour was recorded over a particular period of time, and was taken into account when the Inspector reached his conclusion. He was also concerned about the cumulative impact in that area. I consider that this is different to the case before me, where no such evidence has been presented. In any event, I have determined this appeal on its merits and on the basis of the evidence before me. The Council's Environmental Protection officers have not raised any objection to the proposal and I have no evidence before me from those responsible for community policing.
15. For the reasons above I conclude that the proposed development would not cause harm to the living conditions of the occupants of neighbouring properties and would not be contrary to policies RS3 and GN3 of the Local Plan. I also consider that the proposal would accord with the fourth core planning principle set out in paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to secure a high standard of design and a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

16. A number of local residents are concerned about a potential reduction in property values, or the ability to sell property should the proposed development go ahead. Planning Practice Guidance states that the Courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a material consideration.
17. It is entirely possible that the appeal property may be vacant at times, between lets and at times when students are not in Ormskirk. The fear of crime can be a material consideration. However, I have no evidence that such a situation would raise any crime and disorder issues over and above that which would be the case for a family house. The nature of the proposed accommodation would mean that the occupants may potentially be more transient than would be the case with family accommodation, but I do not have any evidence that this would lead to any acknowledged harm.

¹ APP/P2365/W/16/3162636

18. In adopting Policy RS3, the Council recognises that private accommodation will continue to be provided in the town to complement purpose built accommodation for students. There is no sequential test within that policy. I have considered this application in accordance with Policy RS3, and GN3, of the Local Plan.

Conditions

19. I have considered the Council's suggested conditions in accordance with Planning Practice Guidance and the Framework.

20. I consider that there is a need to impose a standard condition relating to the time for the permission to be implemented. Although certain internal changes have been made, I am not satisfied that the permission has been implemented.

21. There is also a need for a condition specifying the plans to which the permission relates, in the interests of clarity and certainty.

22. The Council considers that there is a need for a condition to restrict the number of occupants of the property to no more than five persons. Although I have no evidence before me to suggest that the number of occupants is likely to increase beyond five, I can understand the concerns of the Council given the evidence which it has submitted in relation to the intensification of HMOs elsewhere in the district, and the potential impact this would have on neighbouring residents. The appeal property has rooms which potentially could be used as further bedrooms. The Council has also supplied evidence where other Inspectors have adopted this approach and applied a suitable condition. The appeal has also been determined on the basis of five occupants. I therefore have decided that such a condition should be imposed and that it is both necessary and enforceable in accordance with the advice within the Planning Practice Guidance and the Framework.

23. I have also imposed a condition, as suggested by the Council, to ensure that the proposed car parking spaces are kept for the parking of cars and for no other purpose given the number of occupants at the property and the need to ensure sufficient off road parking in the interests of amenity and highway safety.

Conclusion

24. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be allowed.

Mike Worden

INSPECTOR