

## Appeal Decision

Site visit made on 12 April 2016

**by H Cassini DipTP MRTPI**

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

**Decision date: 14 June 2016**

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**Appeal Ref: APP/J0540/W/16/3142593**

**Land at Quinton Garth, Hartwell Court, Westwood, Peterborough PE3 7EL**

- 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 Paul Sharman against the decision of Peterborough City Council.
  - The application Ref 15/01129/FUL, dated 7 July 2015, was refused by notice dated 16 October 2015.
  - The development proposed is the erection of a House in Multiple Occupation providing 6 bedsitting rooms with a shared kitchen and dining facilities.
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### Decision

1. The appeal is allowed. Planning permission is granted for the erection of a House in Multiple Occupation (HMO) providing 6 bedsitting rooms with a shared kitchen and dining facilities at Land at Quinton Garth, Hartwell Court, Westwood, Peterborough PE3 7EL in accordance with the terms of the application, Ref 15/01129/FUL, dated 7 July 2015, subject to the conditions set out in the Schedule to this Decision.

### Application for costs

2. An application for costs was made by Mr Paul Sharman against Peterborough City Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are whether the proposed HMO would:
  - (i) lead to an over intensification of the site, resulting in vulnerability to and fear of crime; and
  - (ii) whether the living conditions of neighbouring occupants would be impacted on, with particular regards to general disturbance.

### Reasons

#### *Fear of crime*

4. Whilst the officer recommendation was one of approval, the Council contended that the proposal would represent an over-development of the site that would lead to a significant level of intensification in terms of the number of future occupiers. It was further considered that this would result in increased levels of vulnerability to and fear of crime.
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5. The previous planning history of the site is of relevance in this instance. Permission was granted in 2011 (Council Ref 11/01014/FUL) for two, three bed semi-detached dwellings on the site. Accordingly, the proposed site is one which had previously been found acceptable for residential use with a minimum occupancy rate of six persons.
6. It would seem likely, therefore, that the proposed change of use would not result in any significant increase in intensity of use and could conceivably result in a lesser degree of intensity than that of the previous planning permission. Assuming a potential maximum occupation of six persons within the HMO, there would not, in my opinion, be sufficient intensification of use as to result in any significant harmful impact on the living conditions of the adjacent occupiers of neighbouring properties.
7. Paragraph 69 of the National Planning Policy Framework (the Framework) states that planning policies and decisions should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. Vulnerability to and fear of crime are therefore material considerations in planning decisions, although the weight that can be attributed to it is often limited unless there is significant evidence to show that the increased fear of crime would actually occur.
8. It is appreciated that local residents have genuine concerns about the potential for an increase in crime and anti-social behaviour. However there is no firm evidence that such occurrences, which are ultimately a matter for the relevant authorities in specific instances, would be attributed to future occupants of the proposed HMO. Crime and disorder does not seem to me to be an inevitable consequence of multi-occupation as opposed to single occupation of dwellings, but rather a question of individual behaviour and appropriate management.
9. I am also mindful that the Police Architectural Liaison Officer has not objected to the proposal. In light of this factor, and in the absence of any firm evidence before me to the contrary, I am unable to conclude that the proposal would result in an increase of criminal activity or anti-social behaviour.
10. I therefore considered that the proposal would not result in an over intensification of the site. At the same time, the vulnerability and fear of crime is not a reason in itself to demonstrate that there will be material harm to living conditions.
11. As such, the proposal would not conflict with the design aims of Policy CS16 of the Peterborough Core Strategy Development Plan Document 2011 (the DPD).

#### *Living Conditions*

12. The Council has expressed concern regarding the level of general disturbance and the effect this would have on the living conditions of neighbouring residents. The concern relating to this area by local residents is also noted. However, it has not been made clear in the Council's decision notice as to the specific area of concern with regards to disturbance.
13. The closest residential property is located approximately eight metres from the rear of the proposal at 53 Clipston Walk. However, as this is a side elevation with no window it is considered that no significant harm would occur with regards to the possibility of overlooking. In terms of the residential care home,

located to the north of the site, the front of the care home is approximately twenty metres from the front elevation of the proposal. Dwellings located to the west and east of the proposal are also approximately twenty metres away. As such, it is not considered that harm to living conditions, with particular regard to outlook, overlooking or privacy would result.

14. It is acknowledged that all construction activities result in an element of disturbance for those residing in proximity of the site. However, whilst there may be some increased disturbance during the construction of the proposal, this will be temporary in nature.
15. The introduction of six additional residents into the locality may result in an increase of general noise, from factors such as slamming of car doors or conversations. However, I find that this would be of little difference to the situation if the initial planning permission had been constructed. I have no substantive evidence before me to demonstrate otherwise.
16. I therefore find that the proposal would not cause significant harm to the living conditions of neighbouring residential occupiers as a result of general disturbance. The proposal would therefore accord with the amenity aims of Policy CS16 of the DPD.

### **Other Matters**

17. A number of local residents have raised additional concerns in relation to the effect of the proposal on car parking availability and use of the access road to the site. Consultation with the local highway authority did not result in any objection and I have not been presented with any substantive evidence that would lead me to disagree with this conclusion. However, in the interests of highway safety, vehicle to pedestrian visibility splays could be the subject of a planning condition.
18. Concern has been expressed regarding the loss of trees on site. However, further to consultation with the tree officer and subsequent amendments to the proposal, no objection was raised by the tree officer. In any case, tree protection measures can also be required by a planning condition.
19. It has been suggested that the proposal would be out of keeping with the existing character of the area. Given the proposed design and scale of the property, I consider that the proposal would be easily integrated into the both the immediate street scene and wider locality.
20. I am therefore satisfied that the above matters would not result in a level of harm which would justify the dismissal of the appeal. As such, they have not been decisive in my decision making.

### **Conditions**

21. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Government's Planning Practice Guidance. I find the majority to be reasonable and necessary in the circumstances of this case, although I have amended the wording of some.
22. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans in order to provide certainty. Conditions to secure appropriate external

materials, refuse disposal facilities, tree retention, slab levels and landscaping are necessary in the interests of amenity and the character and appearance of the area. Highway conditions, including visibility splays, provision of car parking and bicycle storage and temporary storage facilities are necessary to ensure highway and pedestrian safety and to encourage more sustainable forms of transport. To manage the risk of unknown contamination to humans or the wider environment, I consider the proposed contamination condition necessary.

23. Condition Nos. 3, 4, 5, 7, 8, 12 and 13 are specified as pre-commencement conditions which is justified because they cover certain fundamental aspects of the scheme which require consideration and control before any development commences.
24. I have not imposed the suggested condition in respect of the removal of hedgerows or site clearance works between March and August. I have noted the biodiversity checklist completed by the appellant and no species or features of nature conservation importance have been identified. Trees on the site will be managed via the tree protection plan. I have also not imposed the proposed condition with regard to a proposed lighting scheme as I consider it unreasonable to control domestic lighting within a residential setting.

### **Conclusion**

25. In arriving at my conclusion I am conscious that the proposal has attracted a level of local opposition. Some of the concerns raised can be addressed by planning conditions and other encompass matters germane to the main issues on which this decision turns. I have taken into account these and all other matters raised but none are sufficient to alter the overall balance of my conclusion. I therefore conclude that, subject to appropriate conditions, the appeal should be allowed.

*Helen Cassini*

INSPECTOR

**SCHEDULE OF 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 strict accordance with the following approved plans: Site Location Plan drawing number WW/01/B, Existing Site Plan drawing number WW/04 revision A, Proposed Site Plan drawing number WW/05 revision E, Proposed Ground Floor Plan drawing number WW/06 revision C, Proposed First Floor Plan drawing number WW/06 revision D, Proposed Elevations drawing number WW/08 revision C, Proposed Roof Plan drawing number WW/10 revision D, Proposed Cycle Store Details drawing number WW/11/C.
- 3) No development shall take place until details of the materials to be used for external surfaces, windows, external doors and rainwater goods in the construction of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Details submitted shall include the name of the manufacturer, product type and where relevant, colour (using BS4800) and reference number. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until full details of a hard landscaping scheme have been submitted to and approved in writing by the local planning authority. Details submitted shall include hard surfacing materials; boundary treatments, bin storage area, enclosure details and collection point. Development shall be carried out in accordance with the approved details.
- 5) No development shall commence until full details of a soft landscaping scheme have been submitted to and approved in writing by the local planning authority. Details submitted shall include, planting plans and an implementation programme. Development shall be carried out in accordance with the approved details.
- 6) All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Development shall be carried out in accordance with the approved details.
- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboriculture method statement) in accordance with Clause 7 of the British Standard BS 5837:2012 – Trees in Relation to Demolition, Design and Construction has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 8) No development shall take place until the name of the contracted qualified arboriculturalist has been submitted to and approved in writing by the local planning authority. The approved contracted qualified arboriculturalist shall monitor works for the full duration of the development to ensure that all construction works are carried out in strict accordance with the tree protection plan and the arboriculture method statement.
- 9) The property hereby permitted shall not be occupied until visibility splay details have been provided in accordance with details previously submitted to and approved in writing by the local planning authority. The splay shall thereafter be maintained free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway in perpetuity.
- 10) The property hereby permitted shall not be occupied until car parking arrangements for seven cars have been provided in accordance with details previously submitted to and approved in writing by the local planning authority. The approved arrangements shall be kept available for their intended purposes thereafter.
- 11) The property hereby permitted shall not be occupied until secure, covered bicycle parking arrangements for a minimum of six bicycle spaces have been provided in accordance with details previously submitted to and approved in writing by the local planning authority. The approved arrangements shall be kept available for their intended purposes thereafter.
- 12) No development shall take place, including any works of demolition, until details of temporary facilities, located clear of the public highway, for material storage and for parking/turning/loading/unloading of all vehicles visiting the site during the period of construction have been submitted to, and approved in writing by the local planning authority. The approved details shall be adhered to throughout the construction period.
- 13) Prior to the commencement of any works on site, detailed plans, including cross sections as appropriate, showing the existing ground levels, the proposed slab and finished floor levels of the property and car parking facilities hereby permitted and the proposed surrounding ground levels shall be submitted to and approved in writing by the local planning authority. Such levels shall be shown in relation to a fixed datum point normally located outside of the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.
- 14) In the event that contamination on site is found at any time when carrying out the approved development that was not previously identified, it must be reported immediately in writing to the local planning authority. No further work shall be carried out until a method statement detailing a scheme for managing the contamination has been submitted to and approved in writing by the local planning authority. Development thereafter shall be carried out in accordance with the approved details.