

NEWBURY 18/02205/FUL  Pins ref: 3229421	21 Woodside Newbury Berkshire RG14 6HL	Semi-detached house being used as 6 bedroom HMO. Change of use for bedroom 7 to be used as HMO.	Dele Refusal	Allowed. 17.01.2020
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## Decision

The appeal is allowed and planning permission is granted for the change of use of a House in Multiple Occupation (Use Class C4) to a 7-bedroom Large House in Multiple Occupation (Sui Generis) at 21 Woodside, Newbury, Berkshire RG14 6HL, in accordance with the terms of the application, Ref 18/02205/FUL, dated 1 August 2018, subject to the following conditions:-

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:50 Proposed Floor Plans; 1:500 Block Plan and 1:1250 Location Plan
- 3) Prior to the change of use hereby permitted taking place, details of the cycle parking and storage space shall be submitted to and approved in writing by the Local Planning Authority. The change of use hereby permitted shall not commence until the cycle parking and storage space has been provided in accordance with the approved details. The cycle parking and storage space shall be retained for this purpose at all times during the lifetime of this development.

## Application for costs

An application for costs was made by Russell Hanson against West Berkshire Council. This application is the subject of a separate Decision.

## Procedural Matter

The description of development, as stated on the application form, is set out in the heading above. The Council, on the decision notice, has described the development as 'semi-detached house being used as 6 bedroom HMO. Change of use for bedroom 7 to be used as HMO'. However, the Inspector considered that the description of development is more accurately described as 'change of use of the dwelling to a 7 bedroom HMO'. In order to provide clarity, He considered that the description of development is more accurately described as 'a House in Multiple Occupation (Use Class C4) to a 7-bedroom Large House in Multiple Occupation (Sui Generis)' and he determined the appeal on this basis.

## Main Issue

The main issue is the effect of the development on highway safety with particular regard to parking provision.

## Reasons

The appeal site comprises a large, extended two-storey semi-detached property on a residential street on the outskirts of Newbury town centre. The existing plans show that the property has 7 potential bedrooms although the property is currently operational as a 6 bedroom House in Multiple Occupation (HMO). As such the existing use falls within Use Class C4 as a HMO. The proposal would utilise the seventh bedroom making the property a large HMO defined as a Sui Generis Use and provide 4 parking spaces off-road to the front of the property. Although no plans accompanied the planning application to indicate minimum dimensions required for such parking spaces, photographs are incorporated within the appellants' statement to demonstrate that four cars could be accommodated on the driveway.

The Highway Authority considered that there was available space for parking 4/5 vehicles clear of the highway. However, this was considered unacceptable because it did not comply with the adopted parking standards whereby the Council considered the proposal would require 'approximately 11 spaces'. As there are no adopted parking standards for HMOs, this figure was based on parking standards for 7 one-bedroom flats.

The Council's appeal statement, following some additional supporting information from the appellant, recognises that typically there is a low level of car ownership with HMOs and that parking demand is likely to be lower than for a block of 7 one-bedroom flats. Although the Council is now satisfied that 4 parking spaces is acceptable, it considers that sufficient space could be secured on site for no more than 3 cars. This is because tandem parking, as proposed for 2 vehicles, is not considered appropriate for individually occupied units of accommodation such as a HMO. Also, it is considered that the space required to park 2 cars in tandem is not adequate. Consequently, this would result in a shortfall of one space.

In the absence of any adopted parking standards for HMOs and any clear evidence of a local parking issue, the Inspector did not find that the proposal would result in a material shortage in off-road parking provision in this location. Furthermore, it has not been demonstrated that even if there was a material deficiency it would have a harmful effect on highway safety. The Inspector noted concerns raised by an interested party about a shortage of parking spaces and parked vehicles creating obstructions. However, at his site visit, he did not see any restrictions on parking on the highway in the vicinity of the site. Although there was a degree of on-street parking straddling the pavement on the narrow road, the availability of off-road parking for many houses would not indicate a high degree of parking stress and overload in the locality. Furthermore, the appeal site lies in a sustainable location where there are opportunities to travel other than by car. He noted a regular bus service with stops close to the site and there is a train station locally in the town. The National Planning Policy Framework 2019 (the Framework) has a core principle of making the fullest possible use of public transport, walking and cycling. It also advises that parking standards should take account of the accessibility of development and the levels of car ownership.

Overall, the Inspector found that as the site lies in a sustainable location, development using alternative means of transport should be encouraged. In the absence of more detailed evidence of a clear parking problem, he considered that it has not been demonstrated that the small incremental addition of parking demand, which could potentially arise, would be materially harmful to highway safety.

The Inspector was therefore satisfied that there is adequate local capacity to accommodate potential overspill parking within reasonable walking distance of the appeal property without causing undue local competition for on-street parking space or obstructing the passage of vehicles. While the Council is concerned that an increase in reversing movements from the site would cause concern for highway safety, there was no compelling evidence before the Inspector to show that the site could not be accessed safely.

On this basis, the Inspector found no conflict with Policy P1 of the Housing Sites Allocations Development Plan Document (2017), Policy CS13 of the West Berkshire Core Strategy (2006-2026) Development Plan Document (2012), saved policy TRANS.1 of the West Berkshire District Local Plan (1991-2006) (Saved Policies 2007) and the Framework. These provide, amongst other matters, provide parking standards and generally support the promotion of alternative modes of transport and reducing the reliance on the private car.

### **Conditions**

The conditions set out above are based on those suggested by the Council. Where necessary the Inspector had amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.

Planning permission is granted subject to the standard three-year time limit condition. A condition to require the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of certainty. A condition requiring safe storage of cycle space is necessary in the interests of providing opportunities for alternative methods of transport. Given that this storage space would be required in association with the change of use, it is necessary to agree the relevant details prior to the commencement of development.

### **Conclusion**

For the reasons given above the Inspector concluded that the appeal should be allowed.

### **Costs Decision**

The application for an award of costs is allowed, in the terms set out below.

### **Reasons**

Paragraph 028 of the Planning Practice Guidance (PPG) states the established premise that parties to an appeal normally meet their own costs. However, the PPG in paragraph 030 advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and thereby has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal.

The PPG makes it clear that a local planning authority is at risk of an award of costs if it prevents development, which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations, or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

The basis of the applicant's claim arises from the delay in issuing the correct decision and that the Council acted unreasonably in so far that it rigidly applied the standards set out in its adopted parking standards in Policy 1 of the Housing Sites Allocations Development Plan Document (2017), referring to one-bedroom flats rather than for HMOs, for which there are no standards. The applicant considers that the Council also failed to provide any substantive evidence to support its view that the proposal would have an adverse impact on highway safety by means of the cumulative impact of parking.

Councils are required to behave reasonably in relation to procedural matters. The delay in issuing the decision notice, which according to the Council's response was a technical administration error, is unfortunate, but it is not considered excessive and does not in itself amount to unreasonable behaviour.

With regard to the Council's adopted parking standards, the consultation response from the Highway Authority (HA) required the provision of 'approximately' 11 car parking spaces to support the proposed use. The assessment was based upon parking standards for one-bed flats in the absence of parking standards for HMOs.

The policy acknowledges that where parking standards may not accord with the proposal, cases will be assessed on an individual basis. In this case, the parking requirements for the proposal were not assessed on an individual basis. Consequently, the requirement for the

number of on-site parking spaces to comply with the adopted parking standards, where there were none for HMOs, was unreasonable.

No specific evidence or objective analysis was presented to demonstrate that there was not capacity for vehicles to park on the road. Neither was it demonstrated that the additional vehicles parking on the roadside would cause significant harm to highway safety. From the evidence before the Inspector, it was clear that the surrounding neighbourhood provides unrestricted areas to park which would not compromise highway safety.

The applicant is seeking costs in relation to the preparation and submission of the appeal together with the lost income from the additional room during the appeals process. Paragraph 032 of the PPG is clear that awards cannot extend to compensation for indirect losses, such as those which may result from the alleged delay in obtaining planning permission. As such the lost income would be ineligible.

Although the delay in issuing a correct decision notice was not unreasonable, the Inspector did consider that the Council failed to properly evaluate the planning application. Significant weight was given to the Highway Authority response, which was based on parking standards that did not relate to the proposal and not an individual assessment of the proposal. Furthermore, the concerns of the Council about the impact of the proposed development, which justified its decision, have not been clearly demonstrated.

Accordingly, the Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that the costs application should succeed and a full award of costs is justified.

#### **Costs Order**

In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Berkshire Council shall pay to Russell Hanson, the costs of the appeal proceedings, described in the heading of this decision. The appellant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. Such costs to be assessed in the Senior Courts Costs Office if not agreed.

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