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## Appeal Decision

Site visit made on 20 August 2019 by Alex O'Doherty LLB(Hons) MSc

**Decision by R C Kirby BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 October 2019**

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**Appeal Ref: APP/D3125/W/19/3226125**

**100 Eastfield Road, Witney OX28 1HW**

- 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 Aidan Meller against the decision of West Oxfordshire District Council.
  - The application Ref 19/00081/HHD, dated 18 January 2019, was refused by notice dated 22 March 2019.
  - The development proposed is described as, "extension to house".
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### Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing dwelling to house in multiple occupancy (Class C4) at 100 Eastfield Road, Witney OX28 1HW in accordance with the terms of the application Ref 19/00081/HHD, dated 18 January 2019, 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: SU01, SK01 (Rev C).
  3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  4. The property shall not be occupied as a house in multiple occupation until space has been laid out within the site in accordance with drawing no. SK01 (Rev C) for 2 cars to be parked, and that space shall thereafter be kept available at all times for the parking of vehicles.
  5. The property shall not be occupied as a house in multiple occupation until space has been laid out within the site in accordance with drawing no. SK01 (Rev C) for bicycles to be parked, and that space shall thereafter be kept available at all times for the parking of bicycles.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

## **Procedural Matters**

3. The application form describes the proposal as, "extension to house". However, both the Council's Decision Notice and the appeal form describe the proposal as "conversion of existing dwelling to house in multiple occupancy". As the latter description more accurately describes the proposal, the appeal has been considered on that basis.
4. The Council mentioned that they approached this appeal as a proposal for an unrestricted House in Multiple Occupation (HMO), although the Decision Notice referred to a "Class C4 house in multiple occupation". The proposal involves 6 bedrooms and the appellant stated that the property is likely to house 6 people, which falls within Use Class C4. I have considered the appeal on this basis.
5. There is no dispute between the parties regarding the design and appearance of the proposed single storey rear extension, and I agree that this element of the proposal is acceptable. Therefore, this element is not considered further.

## **Main Issues**

6. Considering the above, the main issues in this appeal are the effect of the proposed development on:
  - the character and appearance of the surrounding area;
  - highway safety in terms of off-road car parking provision; and
  - the living conditions of the intended future occupiers of the scheme and nearby occupiers, in terms of noise.

## **Reasons for the Recommendation**

### *Character and appearance*

7. Eastfield Road is a residential street characterised by semi-detached properties. Aside from the rear extension, the main changes sought by the proposal are internal. The changes to the front of the property, principally involving the removal of a wall, would be limited and would not adversely affect the character or appearance of the area. In terms of the physical appearance of the property itself, its use as a Class C4 HMO would be virtually indistinguishable from its use as a family-orientated home.
8. Compared to a dwelling occupied by a single household, the occupation of the HMO by up to 6 unrelated individuals could lead to some additional activity, such as the general coming and going of people and their visitors, to the property, including extra vehicle movements. The Council and others consider that such activities cause harm to the character of the area. However, there is no persuasive evidence before me to support these assertions. To my mind, the additional noise and general disturbance as a result of the HMO would not necessarily be greater than that which might occur if the appeal property were to be occupied by a large family.
9. Moreover, I am not persuaded that vehicle ownership and demand for on-road car parking would be significantly greater to that associated with a dwelling occupied by a family with young adults. It is noteworthy that the Highway Authority in its statement commented that HMOs may have a lower than

average level of car ownership. The proposal would be unlikely to have a perceptible impact on the condition of the roadside verges or the demand for on-street parking in the locality.

10. In my view, the HMO would not manifest itself significantly differently from the occupation of a property as a single dwelling in terms of its effect on the character and appearance of the area. There would be no material harm to the visual and spatial characteristics of the street scene or the local area to which the appeal property belongs. Therefore, I am unable to share the opinion of the Council and others that the appeal scheme would lead to an overly intensive use of the property or that it would unduly disrupt this residential neighbourhood.
11. I conclude therefore that the proposal would not have a harmful effect on the character and appearance of the surrounding area. There would be no conflict with Policy OS2 of the West Oxfordshire Local Plan 2031 (adopted September 2018) (Local Plan), which requires development to be located in the right place, or Policy H6 of the Local Plan which seeks to ensure that the sub-division of existing dwellings respects the character of the surrounding area and does not unacceptably affect the environment of people living in the area.

#### *Highway Safety*

12. From my observations and the evidence before me it is clear that on-road parking and parking on the roadside verges is a feature of the area. Many properties in the area do not appear to have provision for off-road car parking.
13. The appeal site has a hard-surfaced forecourt to the front of the property. Although the appellant has indicated that 3 cars could be parked on this area, I share the concern of the Council that realistically only 2 cars could be parked upon this area at the same time because of the presence of a telegraph pole outside the appeal site. This would result in a shortfall in the off-road car parking requirement of the Highway Authority of 1 space.
14. Given the above, I acknowledge that at least 1 vehicle associated with the HMO would be likely to park in Eastfield Road within the vicinity of the appeal site. Visitors to the property may also park in this road. This would be likely to result in a reduction in available parking spaces for nearby occupiers and their visitors and could exacerbate the 'chicane' effect described by the Council. However, there is little substantive evidence to demonstrate that the existing on-road parking situation has reached saturation point or that highway safety issues have occurred as a result.
15. As such, I conclude that the appeal proposal would not exacerbate on-road parking to the extent that highway safety or the free flow of traffic would be materially harmed. There would be no conflict with Policy T4 of the Local Plan in terms of parking provision. In reaching this conclusion I have had regard to paragraph 109 of the National Planning Policy Framework (the Framework) which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, neither of which apply to the appeal proposal.

### *Living Conditions*

16. Regarding the Council's second reason for refusal (which referred to noise disturbance), the Council clarified that its main area of concern was not from vehicles, but from other residents within the proposed HMO causing disturbance to each other, and to the occupiers of No 98 Eastfield Road, which is the property attached to No 100.
17. Concern has been raised that the property is unlikely to be suitably sound insulated for the proposed use, both in terms of the individual rooms within the property and also the party wall between Nos 100 and 98. Whilst noting this matter I have no substantive evidence before me to demonstrate that the occupiers of the HMO are likely to create more noise than a family who may occupy the property, or indeed that there are issues at present in terms of noise within one part of the property being transferred to another, or from one property to its neighbour to the degree that causes nuisance or harm to living conditions.
18. In light of the foregoing, I conclude that the proposal would not harm the living conditions of the intended future occupiers of the scheme and nearby occupiers, in terms of noise nuisance and disturbance. There would be no conflict with Policy OS2 of the Local Plan, which requires development, amongst other matters to be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants or Policy H6 of the Local Plan which seeks to ensure that the sub-division of existing dwellings does not unacceptably affect the environment of people living in the area.

### **Other Matters**

19. Whilst the Council has attempted to estimate the likely number of occupants generated by the proposal, the actual number of occupiers would be decided via the HMO licensing scheme and through associated legislation. The Council provided details of its HMO licensing scheme, which operates independently of the planning process, and I am satisfied that this scheme would provide the necessary protection regarding the occupancy level of the Class C4 HMO.
20. Neither party has provided substantive evidence regarding the effect of the proposal on the supply and mix of housing in the area. Whilst the Council has described the area as characterised by family dwellings, no substantive evidence has been provided to indicate that the HMO use in this location would unbalance the mix and type of homes in this area. Indeed, it is clear from the Council's Decision Notice that this was not a determining factor when it considered the planning application. Moreover, as the proposal would remove 1 family-orientated dwelling from the locality and replace it with a HMO, the scheme's impact on housing supply and mix would be likely to be minimal. The Council mentioned that Housing Land Supply figures do not traditionally take account of HMOs, however the loss of 1 dwelling to a HMO as proposed would be unlikely to have a discernible effect upon the supply of housing in the area.

### **Conditions**

21. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal is allowed. I have considered the conditions against the advice on conditions set out in the Framework and the Planning Practice Guidance.

22. The Council suggested 2 conditions relating to commencement, but these related to an unrestricted HMO, and I consider that the standard time limit condition would cover all elements of the proposal. A condition is necessary requiring that the development is undertaken in accordance with the approved plans to provide certainty. A condition is also necessary controlling external materials to secure an acceptable appearance for the development. To reduce the pressure of parking within the road, conditions are necessary to secure the retention of the proposed car parking and cycle storage areas.
23. Regarding sound insulation, the Planning Practice Guidance advises that conditions requiring compliance with other regulatory regimes (including Building Regulations) will not meet the test of necessity and may not be relevant to planning. Accordingly, a condition has not been imposed regarding this matter. Similarly, a condition relating to the HMO licensing scheme is not necessary, as this matter falls under other legislation. The relocation of the telephone pole is not essential to provide the parking area for 2 cars and a condition requiring its removal is not necessary, and therefore a condition has not been imposed regarding this matter.

### **Conclusion and Recommendation**

24. Based on the above, and having regard to all matters raised, I recommend that the appeal should be allowed.

*Alex O'Doherty*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

25. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*RC Kirby*

INSPECTOR