



Appeal Decision

Site visit made on 2nd March 2010

by Alison Roland BSc DipTP MRTPI

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

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Decision date:
8 April 2010

Appeal Ref: APP/N4205/A/09/2117729

40 Albert Road, Farnworth, Bolton, BL4 7DR.

- 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 John Illingworth against the decision of Bolton Metropolitan Borough Council.
- The application Ref: 82107/09 dated 22 February 2009, was refused by notice dated 21 August 2009.
- The development proposed is a house in multiple occupation.

Decision

1. I allow the appeal and grant planning permission for a house in multiple occupation at 40 Albert Road, Farnworth, Bolton, BL4 7DR, in accordance with the terms of the application Ref: 82107/09 dated 22 February 2009, subject to the following conditions:
 1. no more than five residents shall live at the property at any one time;
 2. the development hereby permitted shall be carried out in accordance with the plans submitted with the application and appeal Ref Nos: pp-00663854 ground floor and first floor layout.

Main issues

2. The main issues in this appeal are the implications of the proposal for (1) the living conditions of the adjoining dwelling in terms of the potential for noise and disturbance and (2) the living conditions of future occupiers of the appeal premises in terms of the availability of outdoor amenity space.

Reasons

3. The appeal property is a double fronted end of terrace. The proposal which has commenced, is to utilise it for a house in multiple occupation (HMO) accommodating two bedrooms at ground floor and three at first floor (one of the latter being en-suite). A communal living room and kitchen would be provided at ground floor with shared bathroom facilities for two beds at first floor.
4. The Council are concerned about the transmission of noise to No 38 and I note its occupier refers to disturbance from televisions, people moving around the property and doors slamming etc. It is claimed that this disturbance extends well into the evening on occasion, although the appellant disputes this. I accept that the use of the first floor bedrooms in particular, may be greater than if the property were in single family

occupation. That said, I consider the issue of noise would be little different to that associated with a typical family and many bedrooms occupied by children and particularly teenagers, contain televisions and audio equipment. Thus, whilst tenants may be inconsiderate on occasion, the same could be said of any type of occupier.

5. The Council also refer to tenants potentially coming and going during hours that a typical household may not. However, whilst mindful of this point and the comments made by the occupier of No 38, there is no evidence to substantiate the generalised assertion that occupiers of a HMO are intrinsically more disposed to coming and going in the late evening or early morning hours than occupiers of other property types. Some tenants could work on a shift basis and/or during night time hours. However, given the limited number of occupants proposed, I do not consider the comings and goings at the property would be materially different to that associated with a typical household. Reference is also made to anti-social behaviour, which is disputed by the appellant. Either way, that issue is not the preserve of the planning system, but is a matter for the police authorities.
6. Overall on this issue, I am satisfied that the noise and activity likely to be generated by the proposal would be little different to that associated with family occupation. In coming to this view, I have had due regard to the limited number of separately occupied rooms and the fact that the maximum number of occupants at the property could be controlled by condition. I therefore find no conflict with Policies D2, EM2 and EM3 of the UDP.
7. In relation to the second main issue, the Council refer to the advice in Planning Control Policy Note 2: *Space Around dwellings* (PCPN2) which requires a minimum communal amenity area of 18 sqm per flat. However, as the proposal is not for flats, which by the nature of their occupancy are materially different to HMO's, I consider it is of limited, if any relevance to the appeal.
8. The property has a small back yard area which tapers to a point. This could potentially provide a small sitting out area and/or area for hanging clothes and is set back from traffic on the main road to the front of the property. In addition, there is a front garden enclosed by a substantial hedge. Whilst this provides a less useful amenity area due to passing traffic, it nonetheless provides adequate space for the storage of bins and other domestic paraphernalia such as cycles.
9. The Council has drawn my attention to an appeal decision APP/N4204/A/06/2013737. However, in the absence of full details of the case, it is difficult to make a meaningful comparison with the appeal proposal, which I must determine on its merits. Nonetheless, as it related to five flats as opposed to a HMO, I consider it is materially different from the appeal before me and the advice in PCPN2 was clearly more relevant.
10. Overall, whilst accepting that the amenity area available to occupants is somewhat limited, this would also be the case if the property were used as a family dwelling. Moreover, no development plan policy or other guidance

which specifies a minimum provision for HMO's has been brought to my attention. Accordingly, I find no basis to resist the proposal on this issue.

11. In terms of conditions, that suggested by the Council allows for no more than five separately occupied rooms. However, for clarity and to protect the amenities of the adjacent occupiers, I consider it necessary to limit the maximum number of occupants at the property. The views of both parties were sought on the alternative condition and no objections raised.

Other Matters

12. The occupier of No 38 expresses concern about rubbish in the street and whilst this may well be an issue, as there is adequate space within the site to store bins, I do not consider the proposal would materially add to this. Reference is made to the number of rental properties in the area, but it is unclear whether this relates specifically to HMO's or other types of rental property. Either way, no substantive evidence has been brought before me to demonstrate that the appeal proposal would result in an unacceptable over concentration of one particular type of property to the extent the character of the area would be harmed.

ALISON ROLAND

INSPECTOR