
Appeal Decision

Site visit made on 16 March 2015

by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 25th March 2015

Appeal Ref: APP/D1780/C/14/2216617 6 Crofton Close, Southampton, SO17 1XB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ehsan Jaberansary against an enforcement notice issued by Southampton City Council.
 - The Council's reference is 13/00354/ENCOU.
 - The notice was issued on 7 March 2014.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the Land from a single family dwelling (C3 use) to a house in multiple occupation by unrelated persons (C4 use).
 - The requirements of the notice are cease occupation of the dwellinghouse situated on the Land by unrelated persons not forming a single household within the meaning of section 258 of the Housing Act 2004.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since the appeal is exempt from the prescribed fees, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
 - **Summary of Decision: Appeal dismissed and notice upheld.**
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Preliminary Matter

1. Although it is permitted development to change between Use Classes C3 (single household dwellinghouse) to C4 (use of a dwelling for 3-6 unrelated individuals sharing basic amenities), the Council introduced an Article 4 Direction which removes these rights. Additionally, the Council adopted as part of its Local Development Framework and following public consultation, a Supplementary Planning Document (SPD) on Houses in Multiple Occupation (HMOs) in March 2012. The SPD sets out how proposals for planning applications for HMOs will be assessed.

Reasons

2. The main issue in this appeal is the impact of the unauthorised use on the amenities of neighbouring residents.
3. The appeal property is a family house situated in the middle of three houses accessed from a private drive from Crofton Close which is a cul-de-sac in a residential area. The properties generally have relatively small open plan front gardens. The pattern of development is such that there is no through traffic and it appears to be a quiet residential neighbourhood.

4. At the time of my site inspection, it appeared that the appeal property was being occupied by a single family (and therefore not in breach of the notice) and not by 5 unrelated persons which had been the situation when the notice was issued and the basis upon which the appellant had made his appeal. The occupation of an HMO manifests itself differently from the occupation of a property as a single family dwelling.
5. Whilst the previous tenants may have been responsible professional people and noise or disturbance may not have been experienced by neighbours or subject to complaints, the fact is that changes in occupancy occur from time to time. Past behaviour is not necessarily a guide to future behaviour.
6. The Council has referred to a number of other appeal decisions relating to HMOs within the general area. It is evident from these that there are potential problems with the occupation of property as an HMO that would be unlikely to be experienced with a single family dwelling. The adjacent property at 5 Crofton Close was the subject of a dismissed appeal¹ against an enforcement notice in respect of an HMO. Although that case related to eight student occupiers rather than the five persons in this appeal, I find the conclusions reached by the inspector in that case to have relevance to this appeal, in particular, the history of complaints regarding noise and car parking.
7. The introduction of an HMO would be out of character with the area which is defined predominantly by single-family accommodation in a quiet location. It would harm the amenities of existing residents in terms of the potential for noise, nuisance and disturbance associated with the comings and goings of the occupants and their visitors. It would potentially lead to additional parking as the car parking generation of up to 6 adults is likely to be greater than that of a family and this would add pressure for parking on the private drive or on-street parking, which, in Crofton Close, is restricted because of its layout. HMOs are associated with poor refuse management, neglected gardens, and a lack of maintenance and have a propensity to create a negative impact on the street scene. Whilst such behaviour and activities are not necessarily inevitable, they are much more likely to occur in connection with an HMO than a typical family dwelling.
8. The SPD provides that in this part of Southampton, no more than 10% of houses within a radius of 40m of another HMO can be an HMO. Although the appeal property would satisfy this test, I share the view of the inspector for the appeal at 5 Crofton Close. In that case the test was regarded as crude approach and, like that inspector, I attach greater weight to the criteria set out in the Council's Local Plan Review saved Policy H4 which provides that planning permission will only be granted where the proposal would not be detrimental to the overall character and amenity of the area. Whilst the Local Plan review pre-dates the National Planning Policy Framework, I consider that Policy H4 accords with the Framework and can be afforded a significant degree of weight.
9. For the reasons given above and having had regard to the representations made, I conclude that the appeal should not succeed.
10. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

¹ APP/D1780/C/13/2203830

Formal decision

11. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

P N Jarratt

INSPECTOR