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# Appeal Decision

Site visit made on 11 December 2012

**by K E Down MA(Oxon) MSc MRTPI**

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

**Decision date: 22 January 2013**

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**Appeal Ref: APP/C1950/A/12/2180976**  
**50 The Runway, Hatfield, Hertfordshire, AL10 9GL**

- 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 Dr Cheryl Colquhoun against the decision of Welwyn Hatfield Borough Council.
  - The application Ref S6/2012/606/FP, dated 17 March 2012, was refused by notice dated 13 July 2012.
  - The development proposed is change of use to house of multiple occupancy.
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## Decision

1. The appeal is dismissed.

## Procedural matter

2. The East of England Regional Strategy was revoked on 3 January 2013. Both main parties have been given the opportunity to make representations on the effect of the revocation on this appeal. I have also given the matter due consideration. However, in the light of the facts in this case and the policies relied on, the revocation does not alter my conclusions.

## Main Issues

3. There are three main issues. Firstly, the effect of the change of use on the living conditions of occupiers of the dwelling with respect to internal layout standards; secondly, the effect on the living conditions of neighbouring residential occupiers with respect to noise and disturbance; and thirdly, the effect of the change of use on the character and appearance of the area with respect to the balance and variety of residential properties in the area.

## Background

4. In January 2011 the Council made an Article 4 Direction covering most of Hatfield and withdrawing the permitted development right to change the use of a dwelling from Class C3 (dwellinghouse) to Class C4 (small house in multiple occupation for three to six occupants). Following public consultation this was confirmed and came into effect on 12 January 2012. The Direction was in response to the high number of houses in multiple occupation (HMO) in Hatfield and in particular the significant increase over the past decade or so. The Council states in its adopted Supplementary Planning Document "Houses in Multiple Occupation" (SPD) that the concentration of HMO is changing the
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character of some parts of Hatfield which can have a detrimental effect on surrounding residents and the wider local area through an imbalance in the mix of households and issues such as anti-social behaviour, noise and nuisance.

### **Reasons**

5. The appeal property is a modern, detached five bedroom house located on a housing estate known as Salisbury Village which is identified in the SPD as an area with a high concentration of HMO. It lies at the edge of Hatfield, overlooking open countryside. It is within walking distance of the University of Hertfordshire and a major business park. It is also close to a bus route.
6. The appeal dwelling is proposed to be used as a HMO for five people. Two of the bedrooms, although of regular shape, are smaller than the minimum 8m<sup>2</sup> set out in the Council's SPD, being approximately 7.6m<sup>2</sup> and 7.07m<sup>2</sup>. On this basis the Council considers that the living conditions of residents would be unacceptably cramped. However, the SPD includes at Appendix 2 space standard requirements for HMOs under relevant housing legislation. This sets the same standards as the SPD, which is understood to be based upon it, but provides for more flexibility and I consider it relevant in this case.
7. Firstly, where adequate communal areas exist the bedroom standard can be reduced to 6.5m<sup>2</sup>. Both bedrooms would exceed this standard. At the appeal dwelling the communal facilities are generous and include a dining kitchen and separate dining room as well as a living room, all of which comfortably exceed the individual space standards for these rooms in an HMO for five people. Secondly, standards are given for two person units. Two of the bedrooms exceed the two person standard and in addition have en suite facilities. If these were let to couples then the smaller bedrooms could remain un-let. Either way I am satisfied that the dwelling as an HMO would comfortably accommodate five people.
8. It is concluded on the first main issue that the proposed change of use would have no materially harmful effect on the living conditions of future occupiers with respect to internal layout standards. In consequence it would comply with the requirements of Policy D1 of the Welwyn Hatfield District Plan 2005 (LP) which expects all development to be of a high quality of design and with Criterion HMO5 of the SPD which expects the layout and design of HMO to be suitable for the proposed use and number of units of occupation.
9. Turning to the effect on the living conditions of neighbouring occupiers, the Council suggests that the comings and goings of five unrelated individuals would result in unacceptable levels of noise and disturbance for neighbours. In particular there is concern that, owing to the location of the house, it would be used by students whose transient nature and lifestyle would, it is suggested, unacceptably impact on the living conditions of neighbours.
10. No specific evidence is provided to support this contention, for example, details of complaints received regarding noise or nuisance from existing HMO in the vicinity, and no third parties have objected to the proposed change of use. Moreover, I give some weight to the appellant's contention that the house, owing to its size, specification and location close to the business park would be more likely to be rented to young professionals than to students.
11. I am therefore unconvinced by the evidence that five individuals living in the large and detached appeal property would be likely to generate materially more

activity than a family unit or cause an unacceptable level of noise or disturbance to neighbours through comings and goings or through their lifestyle. In consequence it is concluded on the second main issue that the proposed change of use would have no materially harmful effect on the living conditions of neighbouring residential occupiers with respect to noise and disturbance and there would thus be no conflict with Policies D1 and R19 of the LP which, taken together, expect new development to be designed and situated so that it will not generate unacceptable noise for other land uses.

12. The third main issue relates to the concentration of HMO in the area. According to the Council 21% of dwellings in the vicinity of the appeal property are currently HMO. The SPD, which is a material planning consideration, seeks to limit the number of HMO in any area to no more than 20%. This is to ensure that a sustainable balance of households is maintained and to avoid an over-concentration of HMO which, owing to the often short term tenancy of occupiers, can lead to a lack of commitment to the house and the neighbourhood, resulting in harm to the character of the area through, amongst other things, neglected front gardens and a lack of community involvement.
13. According to the Council's method of calculation the appeal property would increase the level of HMO in the vicinity to some 26%. It would be slightly higher if a method proposed by the appellant was used. Either way the level would clearly be above the 20% limit suggested in the SPD which, taking account of the evidence, I consider to be reasonable. The appellant suggests that a higher limit should apply in the vicinity of the appeal property owing to the low density and large size of the dwellings. However, I am not convinced by this argument since it is the maintenance of an appropriate balance between different types of household that helps to secure attractive, mixed and inclusive communities. In Salisbury Village, where overall the concentration of HMO is already high and I saw some visible evidence of neglect, there is a significant risk that the cumulative effect of further HMO could result in material harm to the area.
14. It is therefore concluded on the third main issue that, owing to the cumulative effect of a concentration of HMO, the change of use of the appeal dwelling to an HMO would have a materially detrimental effect on the character and appearance of the surrounding area with respect to the balance and variety of residential properties in the vicinity. This would be contrary to Policies SD1 and D2 of the LP which expect new development to satisfy the principles of sustainable development and maintain the character and respect the context of the area. It would also conflict with the Council's SPD relating to HMO and with the National Planning Policy Framework which expects local planning authorities to deliver a wide choice of high quality homes and improve the places in which people live. However, I find no conflict with LP Policies D1 and R19.
15. The appellant puts forward a number of matters which, she suggests, would amount to reasons why the proposed change of use should be allowed. Firstly, it is alleged that the house was previously operated as an HMO and no problems arose. However, although the appellant suggests that evidence of the previous use could be assembled, none has been provided and it is clear that most recently the dwelling has been occupied by the appellant's family. Secondly, it is suggested that allowing the change of use would make little

difference as there have been few applications since the Article 4 Direction took effect. However, that argument could be used repeatedly to justify successive changes of use which would cumulatively have a detrimental effect on the area and undermine the purpose of the Direction and SPD. These matters therefore carry little weight.

16. Thirdly, the appellant states that she was unaware of the proposed Article 4 Direction and missed the deadline for a change of use under permitted development rights by only a month because the Council failed to take adequate steps to inform homeowners. However, the evidence suggests that both the Article 4 Direction and SPD were properly advertised and consultation was carried out before they came into force. I am not therefore persuaded that the Council acted unreasonably. It is also alleged that other HMO in the vicinity of the appeal dwelling do not hold necessary licences and so should not be included in the Council's calculation. However, the Council has confirmed that, in the case of the houses concerned, where a licence is required it is in place.
17. Finally, the appellant relies on the SPD which states that each application will be considered on its merits in the context of any considerations which the applicant considers would merit an exception to the approach set out in that document. The appellant's exception case is based primarily on her personal financial circumstances, to the effect that she needs to let the house for a temporary period whilst working away from Hatfield during her medical training but ultimately intends to settle there with her family. Whilst I have sympathy for her situation, personal circumstances will rarely be sufficient to outweigh clear planning objections to development and there is, in any case, no compelling evidence that the house could not be let as a single dwelling. Moreover, the proposal is for a permanent change of use and as such there could be no guarantee that the use would ever revert to that of a dwellinghouse. On the basis of the evidence I do not therefore consider that an exception is justified.
18. Overall neither my findings on the first and second main issues nor any of the other matters brought to my attention outweigh the cumulative harm that the change of use would have on the character and appearance of the area. For the reasons set out above and having regard to all other matters raised, including the fact that the appellant has made a formal complaint to the Council regarding its handling of the original application, I conclude that the appeal should be dismissed.

*KE Down*  
INSPECTOR