
Appeal Decision

Site visit made on 13 September 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 21st September 2016

Appeal Ref: APP/U2615/W/16/3153657

57 Southtown Road, Great Yarmouth, Norfolk NR31 0DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs Phillip Smith against Great Yarmouth Borough Council.
 - The application Ref 06/16/0143/CU, is dated 2 March 2016.
 - The development proposed is the change of use to 4 bedroom HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the decision notice, replicated on the appeal form, as this more concisely describes the appeal scheme.
3. The appeal was lodged on the 3 July 2016 against the failure of the Council to give notice of its decision within the appropriate period. However, the appeal appears to have been lodged after a decision notice was issued by the Council on the 10 June 2016. As such, it has proven difficult to reconcile the dates as it appears the Council issued a decision before the appeal was lodged. Regardless of when the decision was issued, it outlines the Council's concerns with the proposal. I have therefore framed my main issue around the Council's concerns, which the appellants have responded to in their Statement of Case.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the living conditions of nearby residents with particular reference to any noise and disturbance.

Reasons

5. The appeal property is a comparatively large two storey end of terrace dwelling house with its principal elevation facing onto Southtown Road. The dwelling exhibits a period style with two large double height bay windows on the front elevation. The front garden has been block paved and given over to parking.
 6. The appeal property is joined along its southern flank by 58 Southtown Road (No 58), a single dwelling house. The third property in the terrace is 59
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Southtown Road, which was once a house but has subsequently been converted to flats. Along the northern flank of the appeal property is a driveway and beyond this a terrace of properties including Nos 56b, 56c and 56d, the occupants of which have objected to the proposal along with the occupants of No 58. 56 Southtown Road, which is also to the north of the appeal site, is a House in Multiple Occupancy (HMO) operated by St Matthews Housing.

7. The area around the appeal site is predominantly residential in character, particularly to the west where there are a number of residential streets. There are however, a significant number of commercial uses interspersed amongst the dwellings as well as the commercial uses along the River Yare to the east.
8. The appeal scheme is to change the use of the existing dwelling house (Use Class C3) to an HMO (Use Class C4). The HMO would encompass four bedrooms and a communal lounge, kitchen diner and bathroom. Planning permission is required as the Council have removed permitted development rights for such a change of use through an Article 4 Direction. The rationale behind the serving of the Article 4 direction is not before me.
9. Saved Policy HOU23 of the Great Yarmouth Borough Wide Local Plan 2001 (LP) relates to bedsits and multi occupied residential accommodation. It seeks to resist the clustering of multi occupied residential accommodation and aims to site such development so that it would not adjoin existing family houses and can be provided without significant detriment to the occupiers of neighbours.
10. The proposed HMO would adjoin an existing family dwelling (No 58) and, in combination with No 59, would result in the clustering of multi-occupied residential accommodation within the terrace of three properties in which the appeal site is located. As such, there is a conflict with Policy HOU23. However, a policy conflict alone is not sufficient for the proposed development to be objectionable. There would need to be material harm arising from the policy conflict to justify the withholding of planning permission.
11. In this instance, the Council are concerned that the nature of HMO occupation is such that the bedrooms could be used intensively and that this would result in a harmful level of noise and disturbance to the occupants of No 58. The occupants of No 58 have indicated that they are likely to be adversely affected by noise due to the thin party wall. The appellants do not contend this point but suggest that the sound insulation they have installed at the appeal property would provide sufficient noise attenuation.
12. I share the view of the appellants that sound insulation to the bedrooms, with the provision of communal space¹, may provide effective mitigation against noise impacts from the bedrooms. However, I have not been presented with technical details, including a specification of the insulation, to demonstrate this would be the case. As such, I am not satisfied that the sound proofing would protect the living conditions of the occupants of No 58 from the additional noise and disturbance that is likely to materialise from the occupation of the proposed HMO. I do not consider this matter can be addressed through a planning condition as there is no information before me to suggest a condition requiring the installation of adequate and effective sound insulation could be adhered to.

¹ This could reduce the likelihood that bedrooms would be used as bedsits.

13. The Council are also concerned that HMOs tend to result in a general and harmful intensification to the detriment of neighbours if such accommodation is clustered, as would be the case with the appeal scheme. The appellants do not dispute this contention *per se* but consider this would not be the case in this instance, as they intend to rent the HMO as four single bedrooms. The appellants opine that the level of occupation associated with the letting of four single bedrooms as part of an HMO, and any associated effects, would be less than occupation by a large family.
14. I share the view of the appellants that occupation of the HMO by four individuals could, to all intent and purposes, be similar to occupation by a large family. However, the bedrooms are described by the appellants as being 16sqm, 11.5sqm 10sqm and 8.8sqm in size. When applying the 'room size by number of occupants' criteria set out in the Council's Environmental Health Officer's comments, three of the bedrooms could be occupied by couples. There is also the potential for the office and lounge to become bedrooms. These factors have the potential to increase the number of people living at the property significantly above the level indicated by the appellants. Whilst this may not be their intention, it is nevertheless a possible future eventuality that cannot be discounted and must be considered.
15. I have not been presented with a suitably drafted planning condition or planning obligation which would control the number of people occupying the proposed HMO and those areas which could be used by paying tenants as bedrooms. As a consequence, I cannot be satisfied that the level of occupation would not be at an uncharacteristically intense level and thus harmful to the living conditions of neighbours due to unreasonable disturbance.
16. A number of residents in the vicinity of the appeal site have indicated that the occupation of the nearby HMO at 56 Southtown Road has adversely affected their living conditions due to the anti-social behaviour of the tenants. The appellants do not dispute the contention that there is anti-social behaviour occurring. But more significantly, they have not explained how they would prevent such impacts arising from the occupation of the proposed HMO. This omission adds weight against the appeal scheme.
17. I therefore conclude that the appellants have failed to demonstrate that the proposed change of use would not have a significant and detrimental effect on the occupiers of nearby residents. I am not therefore satisfied that the proposed HMO would safeguard the living conditions of nearby residents. As such, the proposal is contrary to Policy HOU23 of the LP, which seeks to protect the living conditions of neighbours, an aim consistent with Paragraph 17 of the National Planning Policy Framework.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR