
Appeal Decision

Site visit made on 16 September 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 11 October 2016

Appeal Ref: APP/V2004/W/16/3150214

39 Albany Street, Kingston upon Hull HU3 1PL

- 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 Mark Girdham against the decision of Kingston-upon-Hull City Council.
 - The application Ref 16/00384/FULL, dated 15 March 2016, was refused by notice dated 27 April 2016.
 - The development proposed is the change of use from three flats to nine bed HMO.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from three flats to a nine bedroom House in Multiple Occupation at 39 Albany Street, Kingston upon Hull HU3 1PL in accordance with the terms of the application Ref 16/00384/FULL, dated 15 March 2016, subject to the conditions set out in the schedule to this decision.

Procedural matter

2. For clarity, the description of development in my decision refers to a House in Multiple Occupation and bedroom rather than their abbreviated versions, HMO and bed, as stated on the application form lodged with the Council.

Main issues

3. The main issues are firstly, whether the proposed development would provide satisfactory living conditions for its occupiers with particular regard to living accommodation; secondly, the effect of the proposal on the character of the local area and its sense of community; and thirdly, the effect of the proposal on parking for cycles and vehicles.

Reasons

Living conditions

4. The appeal property is a mid terrace building in use as 3 self-contained flats that faces Albany Street within a predominantly residential area. The proposal is to change the use of the building to a House in Multiple Occupation (HMO). The new HMO would have living accommodation across three floors with nine bedrooms, a communal kitchen, lounge and dining room and toilets on two floors and a shower room at the first floor level.

5. Some of the bedrooms would be modest in size although all would be at least 10sqm in floor area. Each bedroom would have an en-suite bathroom save for No 6, the occupiers of which would have convenient access to a nearby shower and toilet. All the bedrooms would be sufficient in size to accommodate a single bed with some furniture, adequate circulation space and a reasonable external outlook from at least one window.
6. Although the sloping ceiling within part of bedroom 9 would reduce the amount of useable space within it due to the restricted head height, a good-sized room would still be available to its occupiers. There would be no separate living room or lounge although the communal living, kitchen and dining room would be open plan with adequate space for the residents to cook, eat, drink, sit and socialise. The long rear garden would also provide a pleasant area of private open space for all residents to, for instance, sit out and to dry clothes.
7. Although the Council and others have particular concerns regarding the intended occupancy level of the new use and the communal facilities to be provided, the internal layout of a HMO is a matter that is largely covered by other legislation. Specifically, a mandatory licence for the occupation of the property as a HMO would be required. That assessment would have regard to bathroom, toilet and kitchen facilities, room sizes, and management arrangements, in determining the number of individuals or households that the property would be permitted to accommodate. As a licensing authority, the Council therefore has the opportunity to restrict the maximum number of residents, which the appellant states would be nine. In doing so, the occupancy level of the proposed HMO can be regulated to ensure that it reflects the accommodation and communal facilities and amenities to be provided.
8. Taken together, there are no substantive planning grounds to object to the standard of the accommodation proposed. Furthermore, there is no persuasive evidence that the new development would amount to an overly intense use of the appeal property. I also note that the Council's Principal Environmental Health Officer considers the standard of accommodation to be acceptable.
9. On the first main issue, I therefore conclude that the proposal would provide satisfactory living conditions for its future occupiers. Accordingly, it complies with Policy H12 of the Hull City Plan (HCP), which requires, amongst other things, the standard of accommodation to be provided within HMOs to be acceptable. Although the Council's SPG Note 17 deals with the conversion of houses, it contains advice on the internal living space, outlook, light and open areas within HMOs, with which the proposal would also comply. The proposal also adheres with the National Planning Policy Framework insofar as it states that development should provide good quality accommodation and a good standard of amenity for all occupiers of land and buildings.

Local character and sense of community

10. The Council's concerns about the effect of HMOs on the character of a nearby area and its community have caused it to issue an Article 4 direction that would require planning permission the change of use from a dwelling to a HMO. As the site falls outside the designated area it is not subject to the Direction. In any event, planning permission is required for the development sought.

11. HCP Policy H12 notes that a conversion of a property into a HMO will be allowed if it does not result in a concentration of similar uses that would adversely affect the character of the area. In this case, the Council states that there are 6 HMOs along Albany Street, which represents just over 7% of the total number of properties. This level of HMOs cannot reasonably be described as an over-concentration of similar uses, to which the Council refers. While the Council states that 72% of the properties along Albany Street are in some form of shared use, the proposal would not alter that proportion since it is already in use as flats. On that basis, the proposal would not lead to an over proliferation of properties in shared residential use generally or HMOs specifically.
12. Even so, I do acknowledge that HMOs can sometimes have a disruptive effect on a settled residential community and the character of an area because the lifestyle and values of some tenants can differ to those of others and occupiers of HMOs are also more likely to be transient, with less interest in the well being of the area. Some of the problems that can arise include poor refuse management, on-street parking pressure, litter, noise and anti-social behaviour, neglected gardens, damaged and poorly maintained buildings. From many of the objections lodged, local residents have experienced most if not all of these problems although it is unclear from the evidence whether these can all be directly attributed to residents of HMOs along Albany Street.
13. To address these and other issues, the Albany Street Residents Association (ASRA), set up to promote a safe, clean, and quiet community spirited neighbourhood, have been instrumental in bringing forward improvements to the area that have enhanced it as a place to live. Detailed submissions made by the ASRA refer to these improvements and express considerable concern that these would be undermined, as would the sense of community and its social cohesion, if planning permission were to be granted. That the site also falls within a Home Zone would also contribute to improving the quality of the living environment along Albany Street by focusing initiatives on the needs of the pedestrian and cyclist and thus reducing the dominance of the car.
14. In this case, ample space is available to the rear of No 39 to store waste and recycling, details of which could be covered by a condition. This arrangement would ensure that bins are not stored in the front garden that could otherwise detract from the appearance of the property and the street scene, as I saw elsewhere at the site visit. As no changes are proposed to the front façade of No 39, the building itself would not appear different when seen from the road.
15. If the new HMO were fully occupied it is possible that compared to the occupiers of three flats there would be some additional activity associated with nine unrelated residents, such as the general coming and going of people and their visitors, to the house, including extra vehicle movements. However, there is no convincing evidence that the additional noise and general disturbance associated with these movements would be so great as to materially harm the residential character of the local area. Similarly, I am not persuaded that the proposal would lead to an increase in anti-social behaviour or lead to an infestation of vermin.
16. While I accept that untended gardens can be unsightly, as can litter and damaged and poorly kept buildings, these would not necessarily be any worse as a result of the proposal. Car users associated with the new HMO would be

likely to use Albany Street for vehicle parking although on-street parking is a characteristic of this area and is common to many urban locations such as this.

17. For all of these reasons, I consider that the proposed HMO would be compatible with the residential character of the area and that it would not unduly add to the problems to which objectors refer. Also, I am not persuaded that it would significantly undermine the sense of community that the ARSA and others are seeking to nurture and promote. Therefore, on the second main issue, I conclude that the proposal would not materially harm the character of the local area or its sense of community. Accordingly, the proposal does not conflict with HCP Policies G2, G4, H1 and H12. These policies aim to ensure that new development is compatible with the existing predominant land use and does not harm the built environment, character and local amenity of the area.

Cycle and vehicle parking

18. Sufficient space is available to provide secure cycle storage to the rear of the appeal building, details of which could be covered by a condition.
19. To meet its parking standard for vehicles, the Council states that 4.5 off-street spaces would be required to serve the new HMO. As no off-street parking is to be provided, the Council and others are concerned that the proposal would therefore cause or exacerbate local parking problems by significantly adding to on-street parking demand. However, if the current use were to cease then the associated demand for on-street vehicle parking would be removed. According to the Council, the use of the property as 3 flats would require the same level of vehicle parking as the proposal. On that basis, no additional vehicle parking would be required to serve the new use.
20. Even if the proposal did increase the demand for on street parking there is no persuasive evidence before me that there is insufficient capacity to accommodate this demand along Albany Street or that drivers associated with the new HMO would park obstructively, illegally or inconsiderately on the road. During the morning site visit, I saw no evidence of this type of behaviour. I did observe that some vehicles on Albany Street were parked half on the road and half on the footway although this arrangement did not impede other highway users. While car users associated with the proposal could park in front of other buildings, they have a right to do so as any other highway user. I also note that the Council's Highways Officer raises no objection to the proposal subject to the imposition of a condition to secure the provision of cycle parking.
21. On the third main issue, I therefore conclude that the proposal makes adequate parking provision for cycles and vehicles. Accordingly, I find no material conflict with HCP Policies H1, H12, M30 and M33, which broadly aim to ensure that development provides adequate parking and access.

Other matters

22. The Council raises no objection to the proposed changes to the door and windows openings in the side elevation of No 39. I, too, find these alterations acceptable in their design and appearance. There would be no harmful effect on the intrinsic character and appearance of the appeal property.
23. Reference is made to recent appeal decisions at Washington Street, Suffolk Street and Princes Avenue, which all involved a change of use to a HMO within

Hull. In my experience, it is rare that direct parallels can be drawn between one site and another given that their circumstances will often vary. From the limited information provided, none involved a change of use from flats nor were they located on Albany Street. These differences effectively preclude any meaningful comparisons between the proposal and these appeal cases and so I attach limited weight to the decisions cited.

24. The development has attracted strong local opposition including a petition against the proposal. However, the level of objection is not, in itself a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons, which are supported by substantial evidence. Having taken into account all of the submitted representations at the application and appeal stages, and all evidence before me, I am not persuaded that the objections raised, taken individually or together, outweigh my findings in relation to the main issues.

Conditions

25. Most the conditions suggested by the Council are unrelated to the proposal and so have a limited bearing on the appeal. I have, however, considered the conditions outlined in the Officer's report which are more directly relevant to the development sought.
26. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. Conditions relating to waste storage and meter boxes are necessary in the interests of environmental health and to ensure that the development has a satisfactory appearance. A condition relating to cycle storage is also appropriate to promote sustainable transport. The cycle and waste storage arrangements should be agreed before development commences so that these facilities are appropriate in design.

Conclusion

27. For the reasons set out above, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 16 11 001 A and 16 11 103 E.
- 3) No development shall take place until schemes for the secure storage of cycles, refuse and recycling and an implementation programme have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and programme and permanently retained thereafter.
- 4) No meter boxes shall be located on the front elevation of the building without the prior written approval of the local planning authority.