

Appeal Decision

Site visit made on 20 September 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 17th October 2016

Appeal Ref: APP/V2004/W/16/3153110

26 Westcott Street, Holderness Road, Hull, East Yorkshire

- 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 MRC Properties against the decision of Kingston-upon-Hull City Council.
 - The application Ref 16/00232/FULL, dated 10 January 2016, was refused by notice dated 7 April 2016.
 - The development proposed is the change of use of roof void of property into self contained accommodation.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. A local resident is concerned that the appeal property is not owned by the appellant and alleges that a false declaration has been made under Section I (part one) of the appeal form. I note that the Land Registry title provided identifies the owner as Seamoat Limited rather than the appellant. Certificate A was signed and submitted with the planning application and the appeal form also indicates that Certificate A applies since the appellant is the owner of the property. The parties have made no comment on this matter but I am mindful that the Planning Practice Guidance states that it is an offence to complete a false or misleading certificate. However, the Council registered the application as valid and determined the proposal and I am content that my decision would not negate any legal rights in relation to the ownership of the property.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would provide adequate living conditions for future occupiers with particular reference to internal living space and outlook; and
 - The effect of the proposal on the living conditions of nearby residents with particular reference to on-street car parking and noise and disturbance.

Reasons

4. The appeal property is a mid terrace two storey house in use as 4 flats¹. The surrounding area is residential and characterised by similar terrace properties. The proposal seeks the use of the third floor attic space as a self-contained flat. Additionally other alterations are sought to the layout of the other flats in particular to provide a rear access on the ground floor into the garden. Some of the proposed works have already been undertaken (notably on the first floor) and I am aware of the points made by local residents that enforcement action is pending. However, other elements of the scheme have not commenced and I will continue to refer to the scheme as a proposal.
5. A previous proposal for the change of use of the property from 4 flats/bedsits to 5 flats/bedsits was refused². Since the previous refusal, the internal layout of the proposed attic flat has been amended to include a larger living room/kitchen area. A roof light has been provided over the kitchen to provide improved daylight in this part of the room. Additionally bin and cycle storage are shown to the rear of the property.

Living conditions for future occupiers

6. Policy H12 of the Hull City Plan (City Plan) includes a number of criteria to be applied to the conversion of a property into self-contained flats. These include the requirement that the standard of accommodation is acceptable (iii). The supporting text at paragraph 9.44 advises that the amenity of occupiers of a proposed conversion will be taken into account, a minimum floor space of 30 square metres is considered appropriate for each household and the accommodation should have a satisfactory layout and adequate private open space. The Council's Supplementary Planning Guidance Note 17 Converting a House (SPG) similarly requires 1 bedroom self-contained flats to have a floor space of not less than 30 square metres (paragraph 17.23).
7. I am mindful that a new system of housing standards commenced on 26 March 2015 with the introduction of the government's Nationally Described Space Standard (and the Written Ministerial Statement of 25 March 2015) (WMS). This has replaced the existing different space standards used by local authorities. Internal space standards can only be applied where there is a current relevant development plan policy. Such a policy must be based on an assessment of need and viability and can only require compliance with the nationally described space standard.
8. The WMS is clear that existing policies relating to internal space should be interpreted by reference to the nearest equivalent new national technical standard. Table 1 of the nationally described space standard requires a minimum gross internal floor area of 39 square metres for 1 bedroom accommodation with bed spaces for 1 person in a 1 storey dwelling. The notes to the table advise that this can be reduced to 37 square metres where the accommodation has a shower room instead of a bathroom. The appellant indicates that the floorspace of the proposed flat would exceed 30 square metres and meet the Council's standards. The Council considers the floorspace to be around 28 square metres. Notwithstanding this discrepancy, the size of the flat would be around the minimum required by the local policies, and would fall well short of the national standard.

¹ Certificate of lawfulness granted under reference 98/00647/EF

² Reference 15/01273/COU

9. The flat would not be spacious. It would also be within the roof space and affected by the slope of the pitched roof. I accept that the areas of reduced head height would be at the margins of the accommodation and the Council refers to no specific requirements or standards in this regard. Nevertheless, the restricted head height within parts of the flat would limit the practical use of those areas. For example the rear roof slope up from the eaves in the proposed bathroom would restrict head room above and immediately in front of the toilet to the extent that it would be difficult to stand there. It would also curtail the scope to accommodate furniture and storage in the bedroom where the useable space is already compromised by the door into that room from the living room/kitchen as well as that to the adjoining shower room.
10. To my mind, the steeply sloping ceilings throughout the flat, coupled with its very modest proportions and the amount of floor space that would be below head height, would mean that the useable size of the flat would not be great. This would be to the extent that it would provide insufficient internal space to meet the day to day needs of even a single occupant, and would result in an unduly low standard of accommodation. In my view it would also lead to the flat being experienced by occupiers as an unacceptably small and cramped space.
11. I appreciate that there is no relevant current policy referring to the nationally described space standard. I also note the appellant's view that there are objections to including such a policy in the emerging Local Plan. As such, compliance with the new technical standards is not required and the scheme's performance against these and the local standards do not in themselves count against it. However, the underlying aims of these national and local space standards are to create new high quality, accessible and sustainable homes and provide adequate accommodation that takes account of the amenity of occupiers. It seems to me that in this instance, the accommodation that would be provided would be so restricted in size and the harm so great in terms of the unacceptable living conditions that would result, that a refusal of the scheme is justified regardless of the lack of a local policy in this regard.
12. The Council is also concerned about restricted outlook from the proposed flat, but provides no further details as to its objections in this regard. There is a dormer window to the lounge/kitchen area facing the street and a velux window to the bedroom. Views are possible from both of these. A further velux is proposed to the kitchen area. On this basis I see no reason why the proposed flat would fail to provide a reasonable outlook for the future occupiers. However, this does not alter my findings in relation to the unsatisfactory nature of the living space described above.
13. The appeal proposal forms part of a refurbishment of the whole property and other changes are shown on the submitted plans. These include the alteration of the existing first floor rear bedsit to form a one bedroom flat and the incorporation of part of a landing area into the existing first floor front flat. Additionally all the flats would be provided with a new access hallway directly from the rear of the building to the rear garden (the occupiers currently have to use the front door and the side passageway). This upgrading of the existing building is a benefit of the scheme, but I have seen nothing to demonstrate that it could not be provided in the absence of the creation of the third floor flat.

14. The creation of the access hallway to the rear garden would lead to the rear ground floor bedsit becoming smaller. Despite the concerns of local residents, the Council raises no objections to these alterations. I am mindful that the use of these existing units is permitted under the certificate of lawfulness, and whilst the resultant bedsit would have an overall floor space of only 21.4 square metres, the reduction in space as a result of the appeal proposal would not be significant. As such, I do not regard this in itself to be a reason to resist planning permission.
15. I therefore conclude on this issue that although the proposal would provide adequate living conditions for future occupiers in respect of outlook, it would fail to do so with regard to internal living space. It would thus be contrary to City Plan Policy H12 and the advice in the SPG. It would also be at odds with the core planning principle of the National Planning Policy Framework (the Framework) to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Living conditions of neighbouring occupiers

16. The proposal includes no off-street car parking and none is currently provided for the existing flats. City Plan Policy M29 is permissive of development if it provides adequate servicing and parking for motor vehicles. The Council's parking guidelines require flats to provide 1.5 car parking spaces per dwelling and bedsits to provide 1 space per two bedrooms. The Council considers that overall the property should provide 7.5 spaces (1.5 spaces per flat). The Highway Officer estimates that overall 6 car parking spaces should be provided for the occupiers of the entire property. Be that as it may, I am conscious that the proposal would only introduce one additional flat and therefore only 1.5 spaces could be reasonably required.
17. Reference is made to existing and historic parking problems in the area. I appreciate that this has been a previous reason for refusal in relation to the appeal property and at other sites nearby (including No 25). That said, there are no parking restrictions nearby in Westcott Street. At the time of my visit in the middle of the day on-street car parking was possible and spaces were available. Whilst I envisage that demand for on-street parking would be higher during other periods, especially in the evening and at weekends, I do not consider it likely that even at such times the road would be so heavily parked that the appeal proposal would unduly exacerbate this existing situation.
18. Moreover, the appeal property is located close to services and facilities on Holderness Road which is a major bus route. This being so, the proposed flat would be attractive to an occupier without a car. The Council accepts it is an accessible and sustainable location and the Highway Officer advises that a reduction in the provision of car parking spaces at this location is acceptable. In this overall context, any on-street car parking generated by the appeal proposal would in my view be limited, and would not materially add to the pressure for on-street parking to an extent where residential amenity or public safety would be adversely affected.
19. Despite concerns as to the layout of the flats and the positioning of the rooms, the Council's Environmental Health Officer raises no objections to the proposal subject to a sound attenuation scheme. This could be required by a planning condition. I am not aware of the Council's particular concerns, but am content that an additional small flat would not result in any significant increase in noise

and disturbance over and above what could be expected from the established use of the property as flats. On this basis, subject to the imposition of such a condition, I see no reason why the proposal would be likely to result in noise and disturbance to the occupiers of adjacent dwellings.

20. I am aware of the concerns of local residents that the proposed flat would not remain single occupancy and note the example given of a similar flat at No 17 being occupied by three people. However, I have seen no substantiated evidence to suggest that this would necessarily occur at the appeal property and do not regard this to be a reason to withhold planning permission.
21. I therefore conclude on this issue that the proposal would cause no harm to the living conditions of nearby residents with particular reference to on-street car parking and noise and disturbance. Whilst there would be some conflict with City Plan Policy M29 and H12 in that the proposal would not conform with the Council's car parking guidelines, these are not rigid standards. The proposal would align with criteria (b) of Local Plan Policy H12 which does not allow conversions that would adversely affect local amenity and with the according advice in the SPG. Nor would it be at odds with core planning principle of the Framework to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Other matters

22. A further criterion of City Plan Policy H12 is that proposals for self-contained flats will not result in a concentration of similar uses adversely affecting the character of the area (a) (v). The Council indicates that although the concentration of flats in this area has caused concern, more recently there have been very few applications and it is not apparent that there is now an over concentration.
23. Local residents disagree and consider that whilst the proposal would result in only one more flat, it would be unacceptable when there are already too many. They advise that in the space of around 150 metres along the section of Westcott Street where the appeal property is located, 12 of the 30 houses have been converted into flats (37 flats/bedsits in total). Whilst I accept that flats have the potential to alter the character of an area, I have not been made aware of any definition (or rule of thumb) as to what would be regarded as a concentration of flats, or whether any existing areas of concentration exist.
24. In practical terms, according to these estimations more than half of the houses in the stretch of the road surveyed are not in flats and such properties remain in the majority. I have seen nothing to demonstrate that an additional flat would tip a particular threshold, or add substantially to an existing unbalance. Moreover, in this instance, since the appeal property is already in flats, the proposal would not result in the loss of a family home. Furthermore, any impacts on the character of the area referred to in Policy H12 have on the whole already arisen from the established use of the property. I am not persuaded that the proposal would add significantly to any cumulative impacts. Whilst I note the concerns of local residents as to how the use of the appeal property as flats came about, it is nevertheless lawful. Overall, I cannot see that the proposal would result in an undue concentration of flats (or similar uses) to the extent that the character of the area would be adversely affected.

25. In reaching this view I have had regard to the findings of the Inspector in another appeal³ elsewhere in the city which is cited by local residents particularly in relation to the impact of that scheme on the character of the surrounding area. However, in contrast to the appeal scheme, that proposal concerned a house in multiple occupation in an area that had seen a significant number of conversions to non family housing (family housing was found to be in the minority) and was subject to an Article 4 direction. I confirm in any event that I have considered the appeal scheme on its own planning merits.
26. The Council raises no objections to the impact of the insertion of the front roof light on the character and appearance of the surrounding area. Although I am aware of the concerns of local residents in relation to the addition of such things as satellite dishes/aerials and waste water pipes, I am not convinced that these would appear particularly obtrusive or out of place on a residential property in a residential area. Bin and cycle storage would be provided to the rear of the property. I also note the worries of local residents as to the maintenance and upkeep of the appeal property's front garden and those of Nos 17 and 28 which are also in the appellant's ownership. However, I am not persuaded that the appeal scheme would necessarily lead to a worsening of this existing situation. Even so, the absence of harm in these regards counts neither for, nor against, the proposal.
27. The appellant refers to the three strands of sustainable development set out in the Framework. In terms of the economic role of sustainable development, the scheme would lead to construction work and spending in the supply chain. Additionally the new resident would utilise local services and facilities and boost the local economy.
28. In terms of the social role the proposal would add to the choice of homes and is a popular form of accommodation for which government support is available. A number of expressions of interests to take the flat have been received. The demand for smaller units of accommodation and the role of converting larger properties into smaller units in increasing the range of accommodation to meet the housing needs of the community, particularly for affordable housing, is identified in paragraph 9.41 of the supporting text of City Plan Policy H12. This also aligns with paragraph 50 of the Framework which requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends, and the needs of different groups in the community.
29. However, given its limited scale, the scheme's contribution to building a strong, responsive and competitive economy along with its role in increasing housing supply and mix would not be great. Moreover, the proposal would fail to create a high quality built environment or support the community's health, social and cultural well-being. Additionally, in terms of the environmental role of sustainable development, it would not enhance the built environment. As such, and since the adverse impacts of granting permission in this instance would significantly and demonstrably outweigh the benefits, I do not regard the proposal to be sustainable development.

³ APP/V2004/W/16/3145164

Conclusion

30. I have found that the proposal would cause no harm to the living conditions of nearby residents with particular reference to noise and disturbance and on-street car parking. I have also concluded that it would provide adequate living conditions for future occupiers in relation to outlook. However, the proposal would fail to provide adequate living conditions for future occupiers with regard to internal living space and, even having regard to all the other matters raised, this provides compelling grounds to dismiss the appeal.

31. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR