
Appeal Decision

Site visit made on 3 May 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 8 June 2017

Appeal Ref: APP/V2004/W/17/3168348

69 Glencoe Street, Kingston Upon Hull HU3 6HR

- 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 of Myton Gate Property Group against the decision of Kingston-upon-Hull City Council.
 - The application Ref: PP-05502105 (16/01555/FULL), dated 31 October 2016, was refused by notice dated 4 January 2017.
 - The development proposed is a change of use from 3 no. flats into a house in multiple occupation (8 bedroom) and construction of dormer window to rear.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from 3 no. flats into a house in multiple occupation (8 bedroom) and construction of dormer window to rear at 69 Glencoe Street, Kingston Upon Hull HU3 6HR in accordance with the terms of the application, Ref: PP-05502105 (16/01555/FULL), dated 31 October 2016, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Mark Girdham of Myton Gate Property Group against Kingston-upon-Hull City Council. This application is the subject of a separate Decision.

Procedural matter

3. The appeal proposal was described on the planning application form as a change of use from 3 no. flats into HMO (8 bed). The proposal also involves the addition of a dormer window to the rear roof slope, which is included in the description used by the Council on the decision notice. The description used by the Council more accurately sets out the development proposed and I note that the appellant has adopted this on the appeal form. I have therefore also used this description for the purposes of the appeal. In order to be clear about what has been granted planning permission, I have used the term house in multiple occupation in my formal decision rather than the abbreviated term HMO.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposed development would provide suitable living conditions for the future occupiers of the development; and
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- The effect of the proposal on the living conditions of the occupiers of neighbouring residential properties, with particular regard to noise and disturbance.

Reasons

Living conditions of the future occupants of the development

5. The appeal building is a two storey, end of terrace, property that is currently in use as three, one bedroom, flats. The appeal proposal seeks to extend the property by way of a dormer in the rear roof slope and to convert it into an eight bedroom house in multiple occupation (HMO). This would have a shared living room and kitchen on the ground floor. Five of the bedrooms would have en suite bathroom facilities and three of the bedrooms on the first floor would have access to a shared bathroom.
6. Saved Policy H12 of the Hull Cityplan (2000) (the Local Plan) relates to the conversion of properties into flats or an HMO. This policy requires that, in the case of an HMO, the property has a minimum internal floorspace of 150m² and that the resulting standard of accommodation is acceptable. The Hull City Council Supplementary Planning Guidance Note 17: Converting a house (2000) (the SPG), which has to be read alongside Policy H12, provides additional guidance in respect of conversions to an HMO.
7. It is not in dispute that the appeal building exceeds the minimum internal floor area required by Saved Policy H12 and the SPG, nor is it suggested that the size of the individual units of occupation do not comply with the requirements of the SPG or that the shared facilities such as the living room and kitchen areas are inadequate. The Council's case in respect of this matter is that the occupiers of three of the bedrooms on the first floor would have to share a bathroom and that this does not provide a good standard of accommodation.
8. Neither Saved Policy H12 nor the SPG set out any detailed requirements in respect of bathroom provision in HMOs. Although the Council's HMO licencing requirements have not been submitted in evidence, the appellant asserts that the bathroom provision within the proposed development meets the licencing requirements and this is borne out by the Planning Officer's report which states that the HMO license standard requires one bathroom per five occupants. I also note that the Council's Environmental Health Officers, who deal with the licencing of HMOs, did not raise any objections to the proposal other than to comment on the need to provide soundproofing between the first floor bathroom and the adjoining bedroom and the requirement for a fire escape window in the living room.
9. There is some disagreement between the parties in respect of the potential number of occupants. The Council suggest that, as the development would have eight bedrooms, it could potentially be occupied by sixteen people, whilst the appellant suggests that the maximum potential occupancy would be nine and that the actual level of occupancy would be controlled through the HMO licencing procedure, this latter point not being disputed by the Council.
10. Notwithstanding control on the level of occupation through the licencing process, from the room sizes on the submitted plans and from my internal inspection of the property, I consider that it is extremely unlikely that the level of occupation postulated by the Council could be achieved in practical terms.

11. As the proposal also includes five en suite bathrooms, even if the level of occupation suggested by the Council were to occur, in quantitative terms the requirement of one bathroom per five occupants would still be met. Although the licencing requirements are not a planning policy they must, nevertheless, be regarded as a standard against which the quality of the accommodation is assessed.
12. The Council suggest that, through a reduction in the number of bedrooms, each bedroom could be provided with an en suite bathroom. However, this is not a requirement of either Policy H12 or the SPG, nor is there any evidence that it is a licencing requirement. The Council have not raised any other issues in respect of the living conditions of the future occupiers.
13. I therefore find that the proposed development would provide suitable living conditions for the future occupiers. It would comply with the relevant requirements of Saved Policy H12 of the Local Plan and the SPG which seek to ensure that residential conversions provide an acceptable standard of accommodation.

The effect of the proposal on the living conditions of the occupiers of neighbouring residential properties

14. Saved Policy H1 of the Local Plan seeks to ensure that new housing development is acceptable in terms of its impact on the built environment and on local amenity. Saved Policy H12 seeks to prevent an over-concentration of HMOs to protect the character of the area in which it is located. It also states that extending a property to facilitate a conversion will not be allowed if this adversely affects local amenity and, in particular, results in an over intensive use of the property.
15. It is common ground between the parties that the proposal would not result in an over-concentration of HMOs in the street. Whilst the Council's case in part is predicated on the need to extend the property to accommodate the number of bedrooms proposed, it has not raised any concerns in respect of the design of the proposed rear dormer or any adverse effects on neighbouring occupiers though overlooking or loss of privacy. From what I saw when I visited the site I have no reason to reach a different conclusion on these matters. The Council's case with respect to the effect on the living conditions of neighbouring occupiers primarily rests on the presumption that each room within the proposed HMO will be occupied by two persons with a consequent increase in pedestrian and vehicle movements.
16. Neither Policy H12 nor the SPG specifically precludes the extension of buildings to facilitate conversions. Whilst the supporting text to Policy H12 states that extending a property purely to increase the number of units of occupation is not acceptable, this does not form part of the policy. The test to be applied in respect of extensions that is set out in the Policy is whether the extension would adversely affect local amenity or result in an over-intensive use of the property.
17. I have found above that the Council's suggestion that the proposed HMO would be occupied by sixteen residents is not well founded and that the appellant's suggested maximum occupancy of nine residents is a more realistic figure. This is greater than the current maximum occupancy of the building in the currently configuration of three flats, with a maximum occupancy of six

residents. However, overall, this would not represent a large increase in the number of occupiers.

18. The Council have not submitted any substantive evidence in respect of projected additional vehicle movements. I saw when I visited the site that it is well located in respect of access to shops, services and public transport on Anlaby Road and so the future occupiers would not necessarily be dependent on private cars for their transport needs. I also note that the Highway Authority have commented that the car parking requirement for the proposed development is lower than the level of car parking that would be required for the present use of the building, which is indicative that the Highway Authority accept that there is lower car ownership amongst occupiers of HMOs. There is no persuasive evidence that the proposal would increase the number of vehicle movements associated with the building.
19. Although there would be an increase in the number of pedestrian movements associated with the property, Glencoe Street contains a large number of other dwellings which will also generate pedestrian movements. Within this context it is, consequently, difficult to see how this small increase in the number of occupiers would translate into a significant level of additional noise and disturbance in the area. The proposal would not, therefore, represent an over-intensive use of the property.
20. As it is not suggested that the proposed extension would adversely affect nearby residential properties in terms of overlooking or loss of privacy, and no concerns have been raised in respect of the design of the proposed dormer, the extension would meet the requirements of the test in Policy H12 (b).
21. I therefore find that the proposed development would not cause harm to the living conditions of the occupiers of neighbouring residential properties, with particular regard to noise and disturbance. It would comply with the relevant requirements of Saved policies H1 and H12 of the Local Plan and the SPG which seek to ensure that residential conversions do not have an adverse effect on local amenity.

Other matters

22. I have also had regard to comments made by third parties on the original application. The matter of privacy has been covered above. Concern has been raised in respect of the stability of the boundary wall of the property following the demolition of the outbuilding to allow for car parking within the rear yard area. This is primarily a private matter between the two parties concerned and does not fall within my remit in determining this appeal.

Conditions

23. I have had regard to the conditions that have been suggested by the Council. In order to provide certainty as to what has been granted planning permission I have attached a condition specifying the approved plans. The application does not specify the materials for the proposed dormer and therefore in order to ensure that the development is in keeping with surrounding buildings it is necessary to attach a condition requiring the external materials to be submitted for approval. Due to the limited amount of building work involved and the likelihood that this will be early in the development, it is necessary for this condition to be pre-commencement.

24. In order to ensure that appropriate car parking, cycle parking and refuse storage arrangements are in place and, due to the lack of detail in the application with regard to cycle storage and refuse storage, it is necessary to impose conditions requiring details of the latter two to be approved and for all of these facilities to be provided before the development is occupied. The Council suggest that the latter should be also be pre-commencement conditions, however, conditions preventing the occupation of the development would equally ensure that appropriate facilities were provided.
25. As the appeal building is located within an area that is at risk from flooding it is also necessary to attach a condition requiring flood resilience measures to be incorporated.
26. The Council have suggested that an additional condition is necessary requiring that the vehicle parking area be kept clear, however, whilst this is necessary, the requirement can be incorporated into the condition requiring the parking spaces to be provided and kept available at all times.

Conclusion

27. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed, subject to the conditions discussed above.

John Dowsett

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. 16 09 304B.
- 3) Before the development begins details of all external materials to be used in the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall be carried out using the approved materials.
- 4) The development hereby approved shall not be occupied until a vehicle parking area has been provided in accordance with the approved plans. The vehicle parking area shall be kept available in its entirety for such use for the lifetime of the development and shall at no time be used for the open storage of goods or materials.
- 5) The development hereby approved shall not be occupied until secure cycle parking facilities have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall subsequently be retained in its entirety for such use for the lifetime of the development.
- 6) The development hereby approved shall not be occupied until provision has been made for the secure storage of refuse, in accordance with a scheme to be submitted to, and approved in writing by, the Local Planning Authority. The provision shall be retained in accordance with the scheme for the lifetime of the development.
- 7) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Ettridge Architecture ref: 16 09 dated September 2016 and the following mitigation measures detailed within the FRA:
 - a. Identification and provision of a place of safety above 4m AOD as detailed within section 6.6 of the FRA.
 - b. Finished floor levels are set no lower than the existing finished ground floor level of 2.950m AOD as detailed within paragraph 6.1 of the FRA.
 - c. Flood proofing measures shall be incorporated to a level of 300mm above finished ground floor level as detailed within Section 6.6 of the FRA.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority