The Planning Inspectorate

Appeal Decision

Site visit made on 24 June 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/U2615/W/18/3216600
46 Queens Road, Great Yarmouth NR30 3JR

- 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 Miss Victoria Hunt against the decision of Great Yarmouth Borough Council.
- The application Ref 06/18/0345/CU, dated 13 June 2018, was refused by notice dated 5 October 2018.
- The development proposed is change of use from a hotel to a house in multiple occupation with managed accommodation.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from a hotel to a house in multiple occupation with managed accommodation at 46 Queens Road, Great Yarmouth, NR30 3JR, in accordance with the terms of the application, Ref 06/18/0345/CU, dated 13 June 2018, subject to the three conditions set out at the end of this decision.

Procedural Matters

2. I observed during my site visit that the use of the building had already commenced and that the appeal scheme floor plans I have been provided with (drawing 1049/2 Rev.A(April '18)1) do not accurately reflect the layout of the building or the use of all the rooms. Starting with the ground floor, there is a 'kitchen' shown to be accessed through the 'common room' but no access is available as the room adjacent is a private bedroom. It is accessed through the fire door beyond the reception area. This is also used to access a further 'kitchen' and the 'covered yard', these are used for storage and as a laundry. The storage spaces on the first and second floors are in fact kitchens. The ensuite WC in Bedroom 12 is also now a storage cupboard, the bathroom being retained. The layout including the kitchens is more accurately reflected in a plan accompanying the local planning authority's (the LPA) officer report. Nonetheless, given that both plans contain inaccuracies, I have based my assessment on drawing 1049/2 Rev.A(April '18)1 but for the avoidance of doubt I confirm that my determination of this appeal is based on the drawings as submitted and not upon the layout as exists in the building at present.

3. A previous planning application[1] for the change of use of the building from a hotel to an HMO was refused by the LPA and an enforcement notice subsequently served. Both were unsuccessfully appealed in 2017[2]. A further

[1] Ref 06/15/0710/F
[2] Ref APP/U2615/W/16/3151847

planning application[3], again for the same use, was also refused by the LPA, which was also unsuccessfully appealed in 2018[4].

4. These decisions are reasonably recent and there have been no relevant intervening changes in planning policy. Whilst the National Planning Policy Framework (the Framework) has been revised twice since the latest stated appeal, most recently in February 2019, the revisions do not alter the policies upon which this appeal turns.

5. The appeal site, its environs and the substance of the appeal scheme before me are broadly the same to the previous appeal decisions. They are therefore a material consideration of significant weight in my deliberations, as like applications should be considered in a like manner.

Main Issues

6. The main issues in this appeal are: -

- Whether the proposed development provides adequate living conditions for occupants; and
- Whether the HMO is in a suitable location.

Reasons

Living conditions

7. The property is three storeys in height with a basement and attic and is currently in use as a House in Multiple Occupation (HMO). The property was previously in use as a hotel. Whilst the extent of time spent within a bedroom may differ for the HMO and hotel uses, the relationship of the bedrooms to one another is the same. However, the degree of permanency of residential occupation associated with an HMO would warrant a greater degree of protection for occupants.

8. The Inspectors for the previous two appeals considered the effect of noise and disturbance within the property and surrounding areas. In both cases noise mitigation for bedrooms was adjudged to be capable of being addressed by a suitably worded planning condition. Given the relationship of bedrooms to one another, I am satisfied that this is reasonable and necessary to protect the occupants from noise and disturbance. I have not been alerted to any specific change in the site circumstances so my findings are consistent with the previous Inspectors. As such, whilst the LPA does not recommend a condition to address this matter, noise mitigation can be adequately addressed by planning condition.

9. As I have described above, the layout differs to the submitted plans. As the provision of communal space was a significant element of the discussion in the previous appeal schemes, it is also a material consideration in my assessment. It is therefore essential that adequate communal facilities are provided for occupants of the HMO to ensure acceptable living conditions.

[3] Ref 06/17/0412/CU
[4] Ref APP/U2615/W/17/3190619

10. The communal areas for residents will also be shared by the appellant and members of her family residing privately within the building. However, contrary to the details shown on the submitted plans there are parts of the building that appear private. Moreover, the floor plans indicate that there are communal areas accessible to the rear of the building on the ground floor and within the basement. These are all served by a corridor connected to the main entrance hall. The character of these rooms does not appear to have changed from that described by the Inspector for the previous appeal, as they still appear to be primarily the living accommodation of the appellant's family.

11. Whilst I find that sharing accommodation within the building to be appropriate, the uncertainty in relation to defined communal spaces is a concern. Access through private spaces to access communal areas would be an imposition for the appellant and her family, principally in terms of their privacy and security. These rooms are also not particularly accessible from most parts of the building. This would discourage their use by occupants of the HMO and increase pressures for them to spend a disproportionate amount of time in their bedrooms. I do not therefore consider that it would be appropriate to retain these rooms for communal use, particularly if other rooms are available to fulfil this purpose.

12. It is therefore imperative that the other communal spaces available within the building are accessible and functional. The ground floor layout now shown on the submitted plans is different to that described by the previous Inspector, as it includes a 'common room' and linked 'kitchen'. This would remove the reliance placed on the basement to function as communal living accommodation. It would therefore be reasonable to use a suitably worded planning condition to ensure that this accommodation is provided and maintained for use by the occupants of the HMO.

13. The previous Inspector also suggested that kitchens could be provided on the first and second floors to serve occupants of the HMO. Given that the kitchens are already in use, it is not beyond the scope of what can reasonably be controlled by a planning condition to ensure that they remain in situ whilst the HMO is in operation. This is important as the use of the rooms is different to the annotation on the submitted plans. These conditions would be enforceable as inspections can be undertaken in parallel with the annual monitoring required by the Council's licencing of the HMO. As such, these are not matters weighing against the grant of planning permission.

14. I therefore conclude that noise mitigation for bedrooms, along with the provision of the communal living accommodation I have described above, would be necessary to make the proposal acceptable. As the communal rooms are either in situ or proposed as part of the appeal, I now have sufficient grounds to conclude differently on this matter to the previous Inspectors. The communal areas would now be of an appropriate scale and adequately sited to ensure suitable living conditions for the occupants of the HMO. Moreover, occupants would not be pressured into spending a disproportionate amount of time in their bedrooms socialising or preparing and cooking food. Subject to planning conditions dealing with the abovementioned matters, the use would therefore accord with Paragraph 127 of the Framework, which seeks to ensure a high standard of amenity for existing and future users of development.

Whether the HMO is in a suitable location

15. My role is to consider the evidence before me in the context of relevant planning policy and in the previous appeal decisions the Inspectors made it clear that the property is situated between others that are occupied by numerous flats. It would therefore be unreasonably inconsistent for me to depart from their conclusions. With that in mind, the properties represent a cluster of multiple occupancy properties in Queen Street. This cluster would therefore be conflict with Policy HOU23 of the Great Yarmouth Borough Wide Local Plan 2001 (the LP).

16. The use of the property as an HMO has now been in operation for some time. However, I have not been provided with compelling evidence to substantiate that the use has resulted in an intensification that can be regarded as being harmful to services nearby or to neighbouring properties.

17. I have not been provided with any evidence of noise complaints, antisocial behaviour or increased pressures emanating from parking associated with the development. I therefore share the same view as the previous Inspector that there is adequate parking available on street nearby to serve the HMO and neighbouring uses. I am also mindful that the HMO use must be considered in the context of the previous use as a hotel, whereby comings and goings from the building would have been a regular occurrence. Furthermore, whilst I appreciate that there may be other multiple occupancy properties in the vicinity, I have also not been provided with any information regarding the number or location of these properties. I cannot therefore readily conclude that the addition of the HMO would cumulatively lead to an unacceptably intense or dense concentration of multiple occupancy accommodation which would harm the character of the area.

18. The impact upon the viability of tourism in Great Yarmouth has also not been quantified but the evidence before me indicates that the site is not in an area of prime holiday accommodation. As such, the change of use has not therefore undermined the aim of Policy HOU23 of the LP to direct accommodation of this nature away from these areas. I am also satisfied the proposals would not directly encourage a fundamental change in the character of the area. Similarly, the change of use has also not required any external changes to the building that have had a harmful effect on the appearance of the area. The proposal would therefore preserve the character and appearance of the Camperdown Conservation Area within which it is located.

19. Whilst the evidence of need for further HMO accommodation in Great Yarmouth is not before me as part of this appeal, I am mindful that this matter was discussed in the previous appeals for the site. Both Inspectors accepted that the need for further HMO accommodation outweighs the policy conflict with Policy HOU23. The appeals are directly related to the site and relatively recent. Like the previous Inspectors, I have seen nothing to suggest there is an over provision of HMOs in the vicinity of the site so I can find no reason to depart from the previous position in this respect.

20. I therefore conclude that the points that I have raised above are material considerations that indicate that a departure from the development plan in this instance and on this issue can be justified. As such, I find that the HMO is in a suitable location.

Other Matters

21. The previous Inspector indicated that subject to a suitably worded planning condition the matter of flood risk could be adequately addressed. I have not been made aware of any material change in the risk of flooding at the site and the LPA has recommended a planning condition to deal with this matter. As such, I find no reason to disagree with the previous Inspector's approach to this matter. Furthermore, as each development should be judged on its own individual merits, the LPA can consider whether further development would be harmful in respect of any of the matters referred to in this appeal.

Conditions

22. The appeal being allowed, I attach a condition securing the completion of the development in accordance with the plan submitted with the appeal, except where a different layout would be in the interests of the living conditions of the occupants of the HMO. It is also necessary to exclude the basement area from being used as sleeping accommodation, in the interests of reducing the risk to life from flooding. In this respect the wording of the condition is more precise than the condition recommended by the LPA.

23. I also attach conditions securing a scheme of noise mitigation for the bedrooms within the HMO in order to safeguard the living conditions of future occupiers; and to secure a flood response plan to ensure that occupants are prepared in the event of flooding.

24. I have altered the timeframe to comply with these conditions to three months as this would be more realistic amount of time for the appellant to undertake the works required to meet the conditions.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR

Schedule of Conditions

1) Within three months of the date of this permission, the rooms within the building shall be arranged in accordance with the details shown on drawing 1049/2 Rev.A(April '18)1, except where detailed below:

- the storage rooms shown on the first and second floors shall be retained as kitchens;
- the communal rooms and storage spaces in the basement and adjacent to rooms 19 and 21 at the rear of the ground floor, shall be retained in private use as Manager's accommodation; and
- no room within the basement shall be used for sleeping accommodation.

Each room shall only be used for the express purposes detailed on the approved drawing, or as set out above, and shall not be used for any other purpose whilst the property is in use as a House in Multiple Occupation.

2) Within three months of the date of this permission, a noise risk assessment shall be submitted to, and approved in writing by, the local planning authority. The assessment shall include details of any mitigation measures required to protect the bedrooms within the building from internal noise and a timetable for their completion. All mitigation measures shall be completed in accordance with the agreed timetable and retained as such thereafter.

3) Within three months of the date of this permission, a flood response plan shall be submitted to and approved in writing by the local planning authority. The approved Flood Response Plan, including information regarding the availability of the Environment Agency's Flood Warnings Service, shall be made available to all future occupiers of the House in Multiple Occupation.