



Appeal Decision

Site visit made on 18 February 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2020

Appeal Ref: APP/M2515/W/19/3242219

79 Carholme Road, Lincoln LN1 1RT

- 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 Brayford Guest House Ltd against the decision of Lincoln City Council.
 - The application Ref 2019/0571/FUL, dated 22 July 2019, was refused by notice dated 23 October 2019.
 - The development proposed is change of use of existing guest house (Use Class C1) to house in multiple occupation or student accommodation (9 no. bed spaces) (Use Class Sui Generis).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) sets out that a change of use of a dwelling in the C3 use class to a House in Multiple Occupation (HMO) covered by the C4 use class (shared houses occupied by between three and six unrelated individuals) is permitted development. The appeal property is within an area subject to an Article 4 Direction which removes this permitted right. The appeal proposal is for the change of use of a building falling under a C1 Use Class to a large HMO falling under a sui generis use class and requires planning permission regardless of the Article 4 Direction in place.

Main Issue

3. The main issue in this case is whether the proposal would conflict with the aims of national and local planning policy to create mixed and balanced communities, having regard to the current housing mix in the surrounding area and its effect on residential character.

Reasons

4. No 79 Carholme Road is a two-storey end terrace building currently in use as a guest house. The property is situated on a well trafficked route into the City Centre. The area is predominantly residential in character comprising a mix of accommodation types including dwellings, guest houses and HMOs. It was evident on my site visit that a high proportion of the properties in the area are in use as HMOs with a prominent student population.

5. Policy LP37 (Sub-division and multi-occupation of dwellings within Lincoln) supports the change of use of existing dwellings and buildings in other uses to shared accommodation including HMOs where, amongst other things, it is capable of conversion without causing harm to the amenities of future occupants, neighbours or the wider area; will not lead to or increase an over concentration of such uses in the area; adequate provision is made for external communal areas, bin storage and collection, and on-site parking and cycle storage; and for student accommodation, university/college facilities should be accessible by walking, cycling and public transport.
6. Even though the Article 4 Direction does not apply to the appeal building, the existence of the Direction serves to demonstrate the Council's intention to carefully manage the housing mix and address any population imbalance in the area.
7. I have given regard to the criteria for defining over-concentration of HMOs in The City of Lincoln Council - Houses in Multiple Occupation Supplementary Planning Document (updated January 2018) (SPD). The evidence before me suggests that the proposal would not contravene the SPD requirement to avoid a cluster of three adjacent HMOs. However, the Council has confirmed that the existing concentration of HMOs within a 100m radius of the appeal site is at least 48.82%. On this basis, and without any substantive evidence to suggest otherwise, the concentration of HMOs in the area where the appeal site is located is already at a considerably higher level than the maximum 10% threshold in the SPD. A further HMO would increase the over concentration of HMOs contrary to Policy LP37.
8. The proposal would not result in the loss of a single family dwelling. The SPD confirms that the conversion of other buildings will be considered favourably provided they are in a suitable location, and a satisfactory relationship with adjoining land uses can be maintained.
9. Whilst the existing guest house does not assist in redressing the balance of dwellinghouses in the area, it is an alternative use offering a different type of accommodation and therefore adds to the diversity of the area. Conversely, a further HMO of the size proposed would further increase the concentration of HMOs in the area and would compound the imbalance created by that particular type of use. For that reason, the proposal is not in a suitable location, particularly if it could increase the potential for harm to the residential character of the area.
10. Occupancy of the HMO would be for up to 18 people if in general use or for 9 students. This compares with the maximum 20 guests when the current guest house is at full capacity. I acknowledge that the relative maximum levels of occupants are therefore comparable and both the existing and proposed uses provide accommodation of a transient nature.
11. However, the Council's reason for refusal includes the cumulative harmful impacts that would be experienced by local residents. A typical guest house would be more likely to include day to day management with residents more often staying on a short-term basis. In contrast, tenancies in a HMO are likely to be for longer periods with no on-site management. There would be a greater likelihood for social interaction between the occupiers of a HMO whether this be inside the property or for example a group returning late at night adding to levels of general noise and disturbance in the area. The size of the proposed

HMO and number of potential tenants would increase this likelihood. There would also be greater potential for other associated negative impacts on the appearance of the area with a large HMO. For example, a HMO is more likely to have 'To Let' signs advertising vacant rooms adding to the proliferation of such advertisements in the area. Poor management of refuse is often associated with HMOs due to their being less clarity over such responsibilities.

12. Even though the Police have not objected to the proposal, the above issues demonstrate that creating a balanced community and protecting residential character includes consideration of a range of matters. I am not persuaded by the evidence before me that a change of use to a large HMO would not have a discernible impact on residential character, particularly when considered cumulatively with other HMOs in the area. It is matters such as those detailed above that the Council have sought to address through the Article 4 Direction, Policy LP37 and the SPD.
13. The description of the proposal specifically identifies student accommodation as one of the potential uses of the proposed HMO. Were students to occupy the proposed HMO, this could have the potential to further increase the likelihood of the use contributing to noise and disturbance in the area late at night. Student occupation of the property would also be more likely to result in higher vacancy rates outside University semesters which cumulatively with other student occupied HMOs has the potential to impact on the viability of local services and facilities in the area. In any case I have found that regardless of the potential occupiers, a large HMO would compound the over-concentration of HMOs in the area and would be detrimental to the balance of the community and the residential character of the area. I therefore attach limited weight to the prospect of a legal agreement to prevent student occupation of the HMO, particularly given no such agreement is before me.
14. Having regard to the above matters, the proposal would conflict with the aims of national and local planning policy to create mixed and balanced communities, having regard to the current housing mix in the surrounding area and its effect on residential character. Consequently, in that regard, the proposal would be contrary to Policies LP26 (Design and Amenity) and LP37 (Sub-division and multi-occupation of dwellings within Lincoln) of the Central Lincolnshire Local Plan (2017) which amongst other things require that development contributes positively to local character, that buildings are capable of conversion without causing harm to the amenities of the wider area and only support the change of use of buildings to shared accommodation including houses in multiple occupation where the development will not increase an over-concentration of such uses in the area.

Other Matters

15. There is some support for the proposal from third-parties with comments raising additional matters not covered under the main issue. Even though no external alterations are proposed, and whilst the Trusted Landlord Scheme may have improved standards, these factors do not persuade me that there would not be a perceptible change in character as a result of activity associated with a HMO nor that this would not have a cumulative impact with existing HMOs on residential character. Given that the maximum occupancy levels would be similar to the existing situation, I am not convinced that comings and goings would be likely to be reduced. Any public gain associated with more on-street

parking being available would not outweigh the harm identified. With regards to the suggestion that the HMO may be suitable for professionals or as sheltered accommodation, I have been mindful of the fact that the proposal could cater for a variety of tenants in reaching my conclusion on the main issue. Even so, the characteristics of a HMO which are likely to be harmful to an area where there are high concentrations of such uses remains pertinent to my conclusions.

16. I acknowledge that local and national policy supports the development of under-utilised buildings and that the site is sustainably located in relation to the City Centre and the Universities. I agree with the appellant that any economic benefits for local businesses were the proposed HMO to operate at a greater capacity than the Guest House would be modest. I also concur that there is a need to cater for the housing needs of all groups including students and people who rent their homes. However, I am not persuaded by the evidence before me that these matters outweigh the need to ensure that HMOs are distributed and integrated in a way that safeguards a mixed and balanced community.
17. Whether or not there is a surplus of guest house accommodation or a lack of interest in guest houses on the property market does not persuade me that the increase in the housing imbalance in the area that would result from the proposal would be justified. Furthermore, even if the size of the property does not lend itself to conversion to a single family home, there is no substantive evidence before me to demonstrate that there are no other forms of accommodation that the building could be utilised for that may support families or have a more acceptable impact on the housing mix in the area.
18. The Council did not refuse the planning application on the grounds of flood risk or design matters. The evidence submitted in those respects does not therefore alter my conclusions under the main issue.

Conclusion

19. For the reasons set out, the appeal should be dismissed.

M Russell

INSPECTOR