



Appeal Decision

Site visit made on 4 June 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2020

Appeal Ref: APP/M2515/W/20/3246705

69 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 Mr Rob Hunter (Bond Housing Group (Lincoln) Limited) against the decision of Lincoln City Council.
 - The application Ref 2019/0931/FUL, dated 20 November 2019, was refused by notice dated 9 January 2020.
 - The development proposed is Change of use from Guest House (Boarding House) (C1) to 9 Bedroom House In Multiple Occupation (Sui Generis).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) stipulates that the change of use from a dwelling (within the C3 use class) to a House in Multiple Occupation¹ (HMO) (within the C4 use class) is permitted development and the appeal property is within an area subject to an Article 4 Direction which removes this permitted development right. However, the appeal scheme is for the change of use of a building falling within the C1 Use Class² to a large HMO which is a sui generis use and therefore it requires planning permission regardless of the Article 4 Direction being in effect.
3. The Appellant has queried the relevance of the City of Lincoln Houses in Multiple Occupation Supplementary Planning Document (updated October 2019) (SPD) to the appeal scheme given that the proposal is for a change of use from a guest house and not from a residential dwelling. However, whilst the SPD considers the implications of potential changes of use from dwellings to larger HMOs (and smaller HMOs in areas subject to an article 4 direction) this is not its prime consideration.
4. Indeed, the overall aim of the SPD is to '*manage the future development of HMOs to ensure that such developments will not lead to or increase over-concentrations of HMOs which are considered harmful to local communities*'. This includes assessing proposals for the provision of purpose-built HMOs, changes of use from dwellings and also buildings in other uses (such as guest houses) to HMOs while taking into account various factors such as demographic changes, housing needs, housing standards, design, layout, character and

¹ Shared houses occupied by between three and six unrelated individuals.

² Hotels (including boarding and guest houses).

appearance, noise and disturbance, parking provision, cycle storage and the storage and collection of waste. Consequently, I consider the SPD (and the thresholds and standards within it) to be relevant to the determination of this appeal, and I have considered the proposal on this basis.

Main Issue

5. The main issue is the effect of the proposed change of use on the mix of housing in the area having particular regard to the balance of the community and the amenities of local residents.

Reasons

6. The appeal property is a two-storey mid-terrace building formerly used as a bed and breakfast guest house. The neighbouring property (no. 67) and the one adjacent to it (no. 65) are currently in use as guest houses. The surrounding area is predominately residential with a mixture of guest houses, residential dwellings and HMOs. There are also several commercial properties located on Carholme Road. Indeed, while on my site visit, I observed that the adjacent neighbouring property (no. 71) is currently being used as a student lettings agency as is the property across the road (no. 34) indicating that the area is a popular location for student accommodation as the Appellant has acknowledged³. Carholme Road also serves as a busy route for traffic into the City Centre and is relatively close to the University of Lincoln.
7. Policy LP37 of the Central Lincolnshire Local Plan (adopted April 2017) (CLLP) supports the change of use of buildings in other uses to HMOs where (amongst other things) the proposed development would not lead to or increase an existing over-concentration of such uses in the area. The SPD also states that any proposal for a HMO that would increase the concentration of such uses (within a 100m radius of it) beyond 10% would not be acceptable as this would lead to an over-concentration of such uses in an area to the detriment of the local community. Based on the evidence before me, the concentration of HMOs within 100m of the appeal site is approximately 44% and as a result the proposal would be within an area where there is already an over-concentration of such uses. Consequently, the proposal would fail to comply with criterion c) of Policy LP37 thereby further unbalancing the area's housing mix and the make-up of the local community.
8. Carholme road is relatively busy with a mix of uses including residential dwellings, HMOs, commercial premises and guest houses. However, the fact that the area does not wholly comprise residential dwellings does not mean that it does not have a predominately residential character or that an increase of an existing over-concentration of HMOs in this location would not have an unacceptable adverse impact on the balance of the local community to the detriment of the amenities of existing residents. Furthermore, the fact that an Article 4 direction is in place shows that this is an issue needing to be addressed in the area and that the Council have a clear objective to prudently manage its housing mix and tackle any community imbalance present within it.
9. In support of the appeal scheme the appellant has also pointed out that the proposal would not necessarily become student accommodation and that (given its sustainable location near the city centre and high-quality accommodation) it

³ See Appellant's Statement of Case (paragraph 6.2)

would be an equally attractive location for professionals to reside. However, whilst I note this point, based on the evidence before me and what I saw on my site visit, I consider that it would be highly likely that the proposal would become student accommodation rather than a house full of professionals.

10. I acknowledge that both a guest house and a HMO provide similar accommodation for transient residents. However, the nature of these uses is different in that guest houses typically have a landlord on-site providing daily issue management with residents generally staying for shorter periods whereas a large HMO typically has no on-site management with tenants staying much longer. Furthermore, for similar reasons the residents of a guest house are less likely to interact socially than those of a HMO meaning that it would be more likely that a group of HMO residents could potentially cause noise and disturbance late at night, either inside or outside the property.
11. Consequently, it would be reasonable to think that the proposal would likely generate more noise and disturbance at night than the building's current use (something that would also likely be exacerbated should it be occupied by students). Moreover, the proposal would also potentially increase the likelihood of other adverse impacts on the amenities of local residents such as the inadequate storage and collection of waste due to there being more ambiguity over such responsibilities in relation to HMOs.
12. Accordingly, I find that the proposed development would increase the existing over-concentration of HMOs in the area, further imbalance its housing mix and the make-up of its community thereby causing cumulative harm to the amenities of local residents. I therefore conclude that the proposal would conflict with Policies LP26 and LP37 of the CLLP, and the SPD, which jointly, amongst other considerations, seek to ensure that development proposals contribute positively to local character, that buildings are capable of conversion without causing harm to residential amenity and that the change of use of buildings to shared accommodation (including HMOs) does not cause (or increase) an over-concentration of such uses in an area.

Other Matters

13. I note that the appeal property is currently vacant and would appear to be falling into a state of disrepair, and that the high number of guest houses in the area potentially makes the operation of such a business less viable in a competitive market. However, the Appellant has failed to sufficiently demonstrate that the appeal property could not either be renovated to make the current use more viable or converted to another more suitable viable use such as a residential dwelling (other than simply stating that it 'is considered far too large' to do this). Therefore, given the lack of substantive evidence to the contrary, I consider that the lack of viability of the current use as a guest house to be of insufficient weight to outweigh the policy conflict I have outlined above or to justify any further imbalance in the area's housing mix and community constitution.
14. In support of the proposal the Appellant has cited the fact that development for a change of use from offices to two HMOs was permitted by the Council in a nearby location. However, I do not have all the details of this case before me or the circumstances which led to that decision being taken. In any event, I have determined the appeal scheme on its own merits.

15. The appellant has also cited another appeal decision (Appeal Ref APP/F5540/W/17/3168826) commenting that it means that the proposal would have no more of an impact on residential amenities than a large family home. However, the circumstances applicable to that case (the property had already been in use as a HMO and was close to the flightpath for Heathrow) are not the same as those presented in the appeal before me, which I have determined on its own merits.
16. As the Council did not refuse the planning application on the grounds of flood risk, the evidence submitted in this respect does not alter my conclusion on the main issue.

Conclusion

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

C Coyne

INSPECTOR