



Appeal Decision

Site Visit made on 1 March 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/U1620/W/20/3263401

82 Henry Road, Gloucester GL1 3DX

- 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 Red Interests against the decision of Gloucester City Council.
 - The application Ref 20/00080/FUL, dated 27 January 2020, was refused by notice dated 6 October 2020.
 - The development proposed is a change of use to 8 bed House in Multiple Occupation (HMO (sui generis)) including demolition of the existing garage and timber carport, erection of proposed single storey rear extension and associated car parking, cycle parking and amenity space.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use to 8 bed House in Multiple Occupation (HMO (sui generis)) including demolition of the existing garage and timber carport, erection of proposed single storey rear extension and associated car parking, cycle parking and amenity space at 82 Henry Road, Gloucester, GL1 3DX in accordance with the terms of the application, Ref 20/00080/FUL, dated 27 January 2020, subject to the conditions set out in the attached Schedule.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, with particular regards to its effect on the balance of housing types in the area.

Reasons

4. 82 Henry Road (No 82) is a two storey detached house situated in an attractive residential area. Emerging Policy A1 of the emerging City Plan¹ provides that, amongst other matters, development proposals should not lead to a saturation of intensified properties within the area. Criterion 2 of paragraph 3.1.13 of the supporting text provides that saturation is deemed to be reached if intensified properties represent more than 10% of households within a 100-metre radius. The main parties are in dispute with respect to both the weight that should be afforded to emerging Policy A1, and the interpretation of the 10% threshold within the supporting text in the context of the policy as a whole.

¹ Gloucester City Plan 2011 – 2031 (Pre-Submission version) (September 2019)

5. With respect to the interpretation of the 10% threshold, the appellant has highlighted that the words 'properties' and 'households' are both used in criterion 2 of paragraph 3.1.13 of the supporting text, and has provided an analysis based on the number of households within a 100 metre radius area of the appeal site. In my view, considering that emerging Policy A1 relates to the saturation of intensified 'properties' within an area, its intention is clear. As such, I have based my findings on the evidence provided with respect to intensified 'properties', rather than 'households'.
6. With respect to the weight to be afforded to emerging Policy A1 in terms of paragraph 48 of the Framework², I note that the emerging City Plan has been submitted for examination, but has not yet been found to be sound. I have not been pointed to any unresolved objections submitted within the development plan process. Nevertheless, whilst I do not agree with the appellant's interpretation with respect to the words 'properties' and 'households' (mentioned above), the appellant has made an arguable point, which in my view indicates that the text may be subject to further modification within the development plan process.
7. The appellant has referred to paragraph 118 d) and chapter 5 of the Framework ('Delivering a sufficient supply of homes'), but considering that the supporting text to emerging Policy A1 defines what is meant by 'a saturation of intensified properties', its application would likely be guided by the requirements of that supporting text. Thus, its application would be limited to specific circumstances, and in my view would not conflict with the requirements of the Framework, which would also apply to a broader range of circumstances.
8. Overall, considering that examination hearings are still to take place, which could potentially result in modifications to the emerging policy, including the issue with respect to the words 'properties' and 'households' highlighted by the appellant, I afford emerging Policy A1 limited weight.
9. The appellant has provided a map which details the number of intensified properties (including both 'large' HMOs³ and flat conversions) within a 100 metre radius of the appeal site. The appellant has referred to the apparent absurdity of including the proposal within the calculation for the 10% threshold. Although the text of emerging Policy A1 is not definitive on this point, as the supporting text refers to not permitting 'applications that would result in a saturation of family homes converted into flats or HMOs' I consider that it is reasonable to include the proposal, as an individual proposal may result in saturation being reached, which relates to a core purpose of the policy.
10. On the basis of the evidence provided, the proposal would breach the 10% threshold, as it would result in a figure of 10.2% of intensified properties within the area. However, this would equate to a breach of only 0.2% above the threshold, which would not be numerically excessive.
11. Furthermore, a Lawful Development Certificate (LDC)⁴ for, amongst other matters, a proposed change of use from a dwellinghouse to a 6 bedroom HMO at No 82, has previously been issued. The supporting text to emerging Policy A1 makes it clear that emerging Policy A1 seeks to avoid the conversion of

² National Planning Policy Framework 2019

³ Houses in Multiple Occupation

⁴ Application Number: 20/00422/LAW

'family homes' into flats or HMOs. The implementation of the development referred to in the LDC would result in the loss of a family home at No 82. Thus, as a key aim of emerging Policy A1 has already been undermined by the issuing of the LDC, the significance of the proposal's conflict with emerging Policy A1 is reduced.

12. The appellant has made clear their intention to implement this fall-back position. Indeed, building works have already begun. As such, it is highly likely that the 'family home' at No 82 has already, or will shortly, be removed from the housing stock. Considering this, and that the proposal would involve only 2 more bedrooms than the development referred to in the LDC, the proposal would result in a negligible shift with respect to the balance of housing types in the area. I therefore conclude that the proposal would not have a harmful effect on the character or appearance of the area.
13. Whilst the proposal would lead to a saturation of intensified properties within the area, in conflict with emerging Policy A1 of the emerging City Plan and the 10% threshold set out within its supporting text, the fall-back position indicates that the appeal should be determined otherwise than in accordance with the emerging City Plan. Further, I have not identified any conflict with any of the policies in the statutory development plan.

Other Matters

14. Interested parties have expressed a number of concerns. With respect to the access arrangements and highway safety, I observed the tall boundary wall along the access drive which would obscure the view of drivers looking in that direction. However, several other dropped kerbs with associated accesses are present on Henry Road, meaning that pedestrians are likely to be aware of the potential for their use, with the dropped kerb at No 82 being equally apparent. Moreover, vehicles exiting No 82 would likely be travelling slowly, thereby allowing time for pedestrians to avoid any conflict with them.
15. Similarly, whilst the proposal would result in recycling bins being placed near the front of the property, drivers would still have a wide view of the footway in that direction, and the low vehicle speeds would ensure safety for pedestrians. Drivers entering Henry Road may suffer from some reduced visibility due to the likely presence of parked cars, but slow and careful manoeuvres around parked cars are common in fairly high density residential areas such as this.
16. I observed that parking is clearly at a premium on Henry Road. The proposal would create two more bedrooms than that deemed lawful by the LDC, but that development offers no parking spaces, whereas the proposal would provide 5 parking spaces. Hence, whilst parking impacts would occur, they would be substantially less than would be likely to accrue through the development referred to in the LDC, which is a realistic fall-back position. Therefore, there would be no conflict with paragraph 109 of the Framework, which provides that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, neither of which apply in this case.
17. I have carefully considered the potential impacts of the proposed parking area on the living conditions of adjoining occupiers. The two parking spaces and the driveway nearest to No 82 would be off-set from No 84 Henry Road's (No 84) boundary by a fair amount, and a cycle store would be present in-between. The

other 3 parking spaces would also be positioned away from the garden at No 84, with the driveway leading directly to them. Additionally, an approximately 1.8 metre high timber acoustic fence is proposed to be erected between the two properties. I consider that all this would be sufficient to ensure that the living conditions of the occupiers of No 84, including the use of their living spaces and garden, would not be materially harmed by reason of noise and disturbance. Also, the fence proposed would provide a barrier, which would provide an acceptable level of security for the occupiers of No 84.

18. I observed that the timber car port and concrete garage, both previously adjoining the house and shown on the existing plans submitted with the appeal, have already been demolished. The tall brick wall was currently in situ at the time of my site visit, and the scheme before me proposes timber close-boarded fencing to fill in any gaps following the removal of the garage. As such, the privacy of the occupiers of No 23 Honyatt Road (No 23) would be maintained. The trees at the appeal site are not covered by a Tree Preservation Order and therefore could be removed at any time, but there is no evidence that the proposal would impact on any trees or shrubbery at No 23.
19. The appeal property is located within the Denmark Road Conservation Area, and its positive contribution to the conservation area derives in part from its period styling and brickwork, which complements that seen on other properties further up Henry Road. The Council did not raise any concerns regarding the effect of the proposal on the significance of the conservation area, and I am satisfied that it would preserve the character and appearance of the Denmark Road Conservation Area. There would be no harm to its significance as a designated heritage asset. As such, on this matter, the proposal would comply with the Framework.

Conditions

20. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance. Conditions are necessary, in the interests of clarity and enforceability, setting out the timescale for the commencement of development and the approved plans, respectively.
21. A condition is necessary in relation to a Construction Management Plan / Construction Method Statement to protect the living conditions of neighbouring residents, and in the interests of highway safety. To safeguard the character and appearance of the area, and to promote cycle use, a condition is necessary to ensure that adequate refuse provision and cycle parking is provided. Conditions are necessary requiring the proposed windows to be installed in accordance with the approved details, and for the works to the trees to comply with the approved arboricultural methods, to preserve the character and appearance of the Denmark Road Conservation Area.
22. A condition is necessary requiring the erection of the boundary treatment (including the acoustic fence) to protect the appearance of the area, to minimise noise disturbance, and to ensure that dwellings have satisfactory privacy. A condition is necessary requiring that the driveway and parking area are completed in the permeable tarmac, to protect the appearance of the area and to minimise noise disturbance.

23. I have not imposed conditions requiring the control of the external materials, or specifying the amount and position of car parking spaces, since sufficient detail thereof is shown on the approved plans which are covered by a separate condition.

Conclusion

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

Alexander O'Doherty

INSPECTOR

Schedule

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: Proposed Location & Site Layout Plan (181-03 rev C), Proposed Floor Layout Plans (181-04 rev B), Proposed Elevations (181-05 rev B), Existing & Proposed Roof Plans (181-06 rev A), Arboricultural Survey, Impact Assessment and Protection Plan (V1, 29.07.2020).
- 3) No development shall take place, including any works of demolition, until a Construction Management Plan or Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period for the development. The plan/statement shall provide for:
 - 24-hour emergency contact number;
 - Hours of operation;
 - Parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Routes for construction traffic;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud being carried onto the highway;
 - Measures to protect vulnerable road users (cyclists and pedestrians);
 - Any necessary temporary traffic management measures;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- 4) The proposed cycle and bin storage shown on the Proposed Location & Site Layout Plan (181-03 rev C) shall be made available before the development is occupied. The cycle spaces and bin store shall be retained for the duration of the development.

- 5) The proposed windows shown on the Proposed Elevations (181-05 rev B) drawing shall be installed in accordance with the approved details on the Proposed Elevations (181-05 rev B) drawing, before the building is occupied, and shall be permanently retained thereafter.
- 6) The works to the trees shall comply with the measures specified in the Arboricultural Survey, Impact Assessment and Protection Plan (V1, 29.07.2020).
- 7) The boundary treatment (including the acoustic fence) shall be erected in accordance with the approved details on the Proposed Location & Site Layout Plan (181-03 rev C), before the building is occupied, and shall be permanently retained thereafter.
- 8) The driveway and the parking area shall be completed in permeable tarmacadam, as shown on the Proposed Location & Site Layout Plan (181-03 rev C), before the building is occupied, and shall be permanently retained thereafter.