

Appeal Decision

Site visit made on 11 May 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/U2615/W/20/3254771

10 Southampton Place, Great Yarmouth, Norfolk NR30 2DP

- 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 Stacey Bryenton against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/19/0440/CU, dated 28 July 2019, was refused by notice dated 9 January 2020.
 - The development proposed is change of use from residential to HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal property is already in use as a House in Multiple Occupation (HMO) and, therefore, I have dealt with this appeal as involving an application for retrospective planning permission for its change of use. There are currently four separate bedrooms across two storeys. The proposal includes changing the ground floor rear bedroom to a communal lounge and dining area.
3. The property is currently occupied by fewer than six residents and, therefore, the change of use from a single dwelling to an HMO of this size would normally be permitted without the need to seek planning permission¹. However, in 2012 the Council put in place an Article 4 Direction removing such rights.

Main Issues

4. The main issues are:
 - the effect of the change of use on the character of the surrounding area;
 - the effect on the living conditions of neighbouring residents, with regard to noise and disturbance; and
 - whether the size of the appeal property provides an adequate standard of accommodation.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Class C4 as use of a dwelling house by not more than six residents as a 'house in multiple occupation'.

Reasons

Character of the Surrounding Area

5. No 10 is the middle property in a short terrace of three 2 storey dwellings close to the seafront. Southampton Place is a residential road with the surrounding area also largely residential in character together with some commercial uses.
6. Policy HOU23 of the Great Yarmouth Borough-Wide Local Plan (2001) concerns the change of use of properties to bedsits and other types of multi-occupied units of residential accommodation. The policy says that such changes of use will be permitted where a number of criteria are met. These include that the character and amenities of the locality would not be significantly adversely affected; and that the site is not in an area predominantly comprising properties in single family occupancy².
7. The Council also refers to Policy H12, concerning HMOs, from its Draft Local Plan Part 2. Given that the plan is at a relatively advanced stage and there are no unresolved objections to the draft policy I accept that some weight can be given to it³. Policy H12 says that new HMOs will not be permitted in the designated 'Seafront Area' and 'Back of Seafront Improvement Area'. However, it is not clear from the evidence provided whether the appeal property falls within either of these areas. I have, therefore, considered this issue against adopted Policy HOU23.
8. The proposal is contrary to one criterion of Policy HOU23 as it is an area predominantly comprising properties in single family occupancy. However, the policy also requires an assessment of the effect on the character and amenities of the locality. As such, there would need to be some evidence of material harm for a finding against the proposal on this main issue. I am not aware, however, that any such evidence has been offered by the Council in terms of the issues typically arising from this type of use, such as refuse storage, vehicle parking or the extent of comings and goings from the property. As such, I cannot find that the character and amenities of the locality would be significantly adversely affected.
9. Policy HOU23 also includes a criterion requiring that clustering of properties in multiple occupation would not occur, which in practice means 50% of the length of any continuous frontage⁴. The Council contends that this requirement would be breached with regard to the three dwelling terrace as the neighbouring property, No 9, is in use as an HMO. However, the Council also says that this use does not have planning permission. In these circumstances, where the 50% requirement is only breached due to an apparently unauthorised use which on the available evidence it is not clear will endure, it would not be reasonable to find against the appeal proposal.
10. Accordingly, taking these findings as a whole, I conclude that there is no evidence of material harm to the character of the surrounding area arising from the HMO use. As such, there is no conflict with Policy HOU23, as described.

² Criterion (B) and (C) respectively.

³ In accordance with paragraph 48 of the National Planning Policy Framework.

⁴ Criterion (D).

Living Conditions

11. Policy HOU23 includes criteria requiring for a proposal to be acceptable that adjoining properties are not used as a single unit of family accommodation; and that the proposal could be provided without significant detriment to the occupiers of adjoining buildings⁵. In this case, the lawful use of the two adjoining dwellings either side of No 10 is as single units.
12. I acknowledge that the appeal property currently has a single resident in each of the bedrooms and that this level of occupation is not materially different to that by a family. However, I note also that the size of the rooms means that by current standards they could be occupied by two people. As the proposal is for a permanent change of use to an HMO, I am required to consider the potential long-term occupation of the property as well as its current level.
13. It is possible, therefore, that the property could be occupied by more people than at present, with two people to each room. Balanced against this, there would be one less bedroom than at present and a communal living area would be provided. However, I agree with the Council that due to unrelated individuals living within the property, there would be a greater intensity of use of all three bedrooms than would normally be the case in a single unit. The two rooms on the first floor are to be retained and would be next to adjoining rooms likely to be used solely for sleeping. In this regard there is no evidence provided of noise mitigation measures, such as sound proofing, to address this greater intensity of use.
14. Consequently, it is not possible to conclude that the level and type of occupation possible within the HMO would not result in significant detriment through noise and disturbance to the occupiers of the adjoining dwellings. As such, the proposal is contrary to Policy HOU23, as described.

Standard of Accommodation

15. The overall minimum floor area required for the proposed use of the appeal property as an HMO is 95m², in accordance with the criterion in Policy HOU23⁶. While the Council indicates that the individual bedrooms would be of sufficient size to accommodate two people, the overall size of the property at approximately 85m² falls below the minimum requirement. This would result in a cramped form of overall accommodation for the level of occupation that would be possible.
16. I have no reason to doubt that the HMO in its present form is well managed and kept clean, as I observed at the inspection. However, this does not outweigh the requirement for the property to meet the appropriate size standard for this type of accommodation, particularly where a greater intensity of occupation than at present is possible.
17. Therefore, for this reason, the use as an HMO would not provide an adequate standard of accommodation and, in this regard, the proposal is contrary to Policy HOU23, as described. It is also contrary to paragraph 127(f) of the

⁵ Criterion (E) and (F) respectively.

⁶ Criterion (H).

National Planning Policy Framework (the Framework), which requires development to have a high standard of amenity for existing and future users.

Other Matters

18. An interested party raises concerns about the level of additional parking that could result from the HMO use. While I note this, I am unaware of any parking arrangements that may or may not be available to residents of the appeal property and, therefore, I cannot draw a conclusion on this matter.

Conclusion

19. I have found in the appellant's favour with regard to the first main issue, concerning the effect on local character. However, this does not outweigh the fact that the proposal is contrary to development plan policy and to the Framework as it would cause material harm with regard to its effect on neighbours' living conditions and would not provide an adequate standard of accommodation. There are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR