



Appeal Decision

Site Visit made on 18 May 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2021

Appeal Ref: APP/Y2003/W/20/3264159

34 Ferry Road, Scunthorpe DN15 8QE

- 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 Dawid Dowbusz against the decision of North Lincolnshire Council.
 - The application Ref PA/2020/962, dated 26 June 2020, was refused by notice dated 23 October 2020.
 - The development proposed is described as "part double part single storey rear extension, loft conversion and conversion from C3 into C4 (7 people HMO)".
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of a dwelling to a seven person house in multiple occupation (HMO), including loft conversion, and two-storey and single storey extensions to rear at 34 Ferry Road, Scunthorpe DN15 8QE in accordance with the terms of the application, Ref PA/2020/962, dated 26 June 2020, subject to the following 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: 200210-3.00, 200210-3.01 Rev A.
 - 3) The maximum number of occupants permitted within the property is 7.

Preliminary Matters

2. The description of development in the banner heading is taken from the application form. However, use class C4 is the use of a dwelling by not more than six residents as an HMO. A 7 person HMO, as applied for, is a sui generis use. The description of development used by the Council and on the appeal form is "change of use of a dwelling to a seven person house in multiple occupation (HMO), including loft conversion, and two-storey and single storey extensions to rear". I consider that this more accurately describes the proposed development and it is the description that I have used in my decision.

Main Issues

3. The main issues are as follows:
 - the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance
 - the effect of the proposed development on highway safety with particular regard to parking

- whether there are other material considerations that would outweigh any potential conflict with the development plan.

Reasons

Living Conditions

4. The appeal property is a 2 storey semi-detached dwelling located in a mainly residential area with some commercial units opposite and to the east. It has a reasonable sized south facing rear garden and a small front garden. The properties on Ferry Road in the vicinity of the appeal property are also mainly 2 storey semi-detached dwellings separated from the road by their front garden areas, pavement and at some locations near to the appeal property, grassed areas interspersed with trees.
5. HMO occupation can be different to family occupation. It is generally more transient. There is generally a different nature and pattern of activity, with individuals more likely to come and go separately from one another for work, shopping and other day-to-day activities. Furthermore, with several people occupying the property as individual households, there is a greater potential for separate visitors to come to the property at any one time and increased potential for use of the rear garden which would be accessible to all residents.
6. The intensification of use resulting from the change of use of the appeal property to a 7 person HMO would be therefore likely give rise to a greater level of noise and disturbance as a result of the increased residential occupancy compared to a dwelling occupied by a single household. This is a particular concern given that the appeal property adjoins 36 Ferry Road. I do not have floor plans for this property but based on those of the appeal property and what I observed at my site visit, it is likely that habitable rooms of number 36 would abut the proposed bedrooms and ensuite facilities. This would result in a level of noise and disturbance, for example from people conversing, multiple sources of music and televisions playing and doors frequently closing, which could be readily discernible from the adjoining dwelling, to such an extent that it would significantly harm the living conditions of its occupants. There is therefore the potential for the transference of significantly harmful noise and disturbance between the appeal property and number 36.
7. I conclude, therefore, that the change of use of the appeal property to an HMO would have a significantly harmful effect on the living conditions of occupiers of neighbouring properties with particular regard to noise and disturbance. As a consequence, the proposed development would conflict with Policies DS1, DS4 and H5 of the North Lincolnshire Local Plan 2003 (the Local Plan), which seek to ensure no unacceptable loss of residential amenity from noise, amongst other factors.
8. The appellant considers that Policy H5 of the Local Plan is not relevant to the consideration of the proposed development, stating that it relates to new build dwellings and not the conversion of existing dwellings. Policy H5 is not aimed at just new build housing development, it relates to all new housing development. As such, it is relevant to the consideration of the proposed development.

Highway Safety

9. The majority of properties on Ferry Road in the vicinity of the appeal property have off street parking provision for at least 1 vehicle. Parking provision varies on streets off Ferry Road in the vicinity of the appeal property. A number of the dwellings on Buckingham Street (North) and Spencer Avenue do not appear to have off street parking provision, whilst many of the properties on Buckingham Avenue and Crosby Avenue include off street parking provision for at least 1 vehicle.
10. There does not appear to be any parking restrictions on Ferry Road in the vicinity of the appeal property or on the nearby streets that run off Ferry Road other than single yellow lines in the area of Ajax Court to the east of the appeal property. School crossing signs were apparent in the vicinity of the appeal property.
11. The Council has not provided a view on what its expectations are in terms of on-site parking provision. The appellant referenced a document entitled Parking Provision Guidelines for New and Change of Use Developments. However, the Council confirmed that its parking provision requirements are set out in Policy T19 and Appendix 2 of the Local Plan. The parking guidelines set out in Appendix 2 of the Local Plan state that, for above 6 households, 3 spaces should be provided. The appeal property has a driveway. In their appeal statement, the appellant has stated that 2 parking spaces would be provided. However, the application form states that 1 parking space would be provided, which is consistent with the parking provision shown on the submitted plan. It is on the basis of this provision that I have based my decision.
12. The development plan allows for some flexibility in the number of parking spaces in certain circumstances. The supporting text to Policy T19 of the Local Plan makes reference to adopting reduced requirements in locations which have good access to other means of travel other than the private car. Appendix 2 of the Local Plan states that the parking guidelines provided should be referred to as a starting point only and should not be regarded as definitive. Appendix 2 of the Local Plan identifies criteria that will be taken into account including the type of development proposed and existing public transport provision, although it does recommend that all operational parking be provided within the site curtilage.
13. I observed the parking situation on Ferry Road and other streets in the vicinity of the appeal property on a weekday morning. Whilst this was only a snapshot in time, there is no evidence to suggest that it was not representative of the general parking situation. There are local concerns regarding on-street parking pressures, including concern about parking on the grassed verges. From my observations and the evidence before me there is some reliance on on-street parking. I observed that on-street parking was well used on Buckingham Street (North) and Spencer Avenue, and also on a limited stretch of Ferry Road to the east. There was on-street parking capacity on Ferry Road and on other nearby Streets including Buckingham Avenue and Crosby Avenue.
14. The appeal property is located within a reasonable walking or cycling distance of the town centre, including the bus station which would give access to public transport options. Occupiers of the proposed development would have transport modes available to them other than the private car and would not necessarily have to rely on a car for day to day requirements. Furthermore, my

understanding of HMOs is that occupants often have a low rate of car ownership.

15. Whilst there is some demand for on-street parking within the vicinity of the appeal property, there is little substantive evidence to demonstrate that the existing on-street parking situation has reached saturation point or that highway safety issues or disruption to traffic flow have occurred as a result of the current levels of on-street parking. I also have no substantive evidence that routes for emergency vehicles have been hindered due to on-street parking. I note that the Highway Authority offered no objections to the proposed development.
16. As such, I conclude that the proposed development would not exacerbate on-street parking to the extent that there would be an unacceptable impact on highway safety or the free flow of traffic. I therefore find no conflict with Policies H5 and T19 of the Local Plan in terms of parking provision and the effect on highway safety or the free flow of vehicles using the local highway network.
17. The Council has referred to Policy DS1 of the Local Plan in its second reason for refusal in its decision notice. Although Policy DS1 sets out general requirements for all developments including development standards, there does not appear to be any criteria within the Policy that addresses car parking, highway safety or traffic flow. Consequently, I do not consider it relevant to this issue, although this does not alter my findings.

Other Material Considerations

18. The appellant has emphasised the fallback position that express planning permission would not be required to change the use of the appeal property to a use as Class C4, HMO occupied by not more than 6 residents, and that the effects of 1 additional occupant would not result in an unacceptable level of noise and disturbance to the neighbouring properties. Based on the evidence before me, I am satisfied that this fallback position is a realistic proposition and were I minded to dismiss the appeal there is a reasonable likelihood that it would be implemented.
19. With the extensions proposed, which the Council has raised no objections to in themselves, the appeal property could accommodate up to 6 occupants. The occupation by 7 individuals would only be a marginal increase over and above that of a C4 use of the appeal property. Any additional effects arising from a single additional occupant living at the appeal property would not likely be significant when compared to the use of the appeal property as a C4 use or indeed as a property for a large single family. I attach considerable weight to this fallback position.

Other Matters

20. In terms of the effect on living conditions of occupiers of neighbouring properties, no windows are proposed on the east or west facing elevations and whilst the proposed dormer would introduce an additional window at an elevated level, windows of the appeal property already have views in the same direction. The proposed rear extensions would be located far enough from the neighbouring properties such that the outlook for occupiers of those properties would not be significantly harmed, nor would there be a significantly harmful

loss of daylight or sunlight. I note that the Council did not raise any concerns about the proposed development in this regard.

21. The appeal property would remain in a form that is similar to other dwellings in the area, albeit with a relatively large rear dormer and rear extensions. As such, there would not be significant harm to the character or appearance of the area or the host dwelling. I note that the Council did not raise any concerns about the proposed development in this regard.
22. Whilst I recognise the concerns about the precedent that the proposed development may set in terms of HMOs in the area, no substantive evidence has been presented about other similar development being proposed nearby. Nor has substantive evidence has been presented that the proposed development would be likely to increase the risk of anti-social behaviour, or that the sewerage system would not be able to accommodate the proposed occupancy. I give these matters very limited weight.

Conditions

23. The Council has not suggested any conditions to be imposed in the event that I allow the appeal. However, the committee report does identify recommended conditions and I have had regard to those, having regard to the 6 tests set out in the National Planning Policy Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
24. A condition to require the development to be carried out in accordance with the approved plans is necessary in the interests of certainty.
25. In order to ensure that the HMO is not overly-intensively used it is necessary for a condition to be imposed restricting its occupancy to a maximum of 7 residents.

Planning Balance and Conclusion

26. I have found that the proposed development would not cause an unacceptable impact on highway safety or the free flow of traffic due to a lack of parking provision. This is a neutral factor and therefore does not weigh for or against the proposal.
27. I have found that the proposed development would result in significant harm to the living conditions of neighbouring occupiers due to noise and disturbance and would conflict with Policies DS1, DS4 and H5 of the Local Plan in this respect. However, the fallback position is a material consideration that I give considerable weight to. In this case, it outweighs the conflict that I have found with the development plan.
28. Therefore, for the reasons given, I conclude that the appeal should succeed.

F Wilkinson

INSPECTOR