



Appeal Decision

Site Visit made on 15 June 2021

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2021

Appeal Ref: APP/C1055/W/21/3270904

72 Radbourne Street, Derby, DE22 3HB

- 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 Murat Tumay against the decision of Derby City Council.
 - The application Ref 20/01492/FUL, dated 24 November 2020, was refused by notice dated 29 January 2021.
 - The development proposed is the change of use from a 6 bed HMO (Class C4) to an 8 bed HMO (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a 6 bed HMO (Class C4) to an 8 bed HMO (Sui Generis) at 72 Radbourne Street, Derby, DE22 3HB in accordance with the terms of the application, Ref 20/01492/FUL, dated 24 November 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: drawing no. D301 – 26/10/2020 (drawing revision 26/10/2020 - A), drawing no. D101 – 26/10/2020 (drawing revision 26/10/2020 - A) and drawing no. D102 – 26/10/2020 (drawing revision 23/07/2020 - A).
 - 3) The development hereby permitted shall not be first occupied until the bicycle parking space shown on the plans hereby approved has been laid out on site. The space shall thereafter be kept available solely for the parking of bicycles.

Preliminary Matter

2. I have utilised the description of development from the appeal form rather than the application form as this more accurately describes the appeal development. Although reference has been made within the decision notice to the 'retention' of the change of use, my site visit did not indicate as such with a number of rooms unoccupied.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of future occupiers with reference to internal space and outlook.

Reasons

4. The appeal site is a large building, elevated from the street, and it part of a terrace of three dwellings. The area contains a variety of mainly two storey properties, although there are some part-three storey buildings in the area. Rooflights can also be seen on some two storey buildings indicating the use of their roof space.
5. Of the eight bedrooms proposed, the Council's concerns relate to bedroom 7, which would be within the roof space to the front of the property and only served by rooflights. I acknowledge that rooflights are more restricted than a vertical window in terms of the outlook offered, but I was able to see from my site visit that the size and position of the rooflights afforded views out. Whilst mostly of the sky, a view was possible from various places within the room and not only when standing close to the sloping walls.
6. The headroom was only constrained in part of bedroom 7. Even with a bed and other furniture in the room, there was usable space to move around internally within this room without feeling like the ceiling was too low. Furthermore, the appellant has provided further alternative furniture layouts to demonstrate the flexibility of the circulation space available.
7. On the ground floor, the development would provide a communal kitchen and dining area. These spaces would be of a limited size and also provide the only access to the rear garden. I was able to see when I visited the site that it would be possible to pass through the kitchen to the rear, even with the hob or sink being used. Of the 8 bedrooms proposed in the appeal scheme, 6 would have their own kitchenettes. Given the size of the individual bedrooms, and that occupiers within a HMO would be living independently of one another, I consider it likely that they would choose to spend more time in their private spaces. On this basis, I consider the width of the kitchen and the size of the communal dining area would provide adequate living conditions for occupiers.
8. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers. As a result, it would comply with Policy CP3 of the Derby City Local Plan – Part 1 Core Strategy and Policy GD5 of the City of Derby Local Plan Review (Local Plan Review). These seek, amongst other matters, development that provides a satisfactory level of amenity within the site or building itself. There would also be compliance with the National Planning Policy Framework, which seeks at paragraph 127 f), a high standard of amenity for existing and future users. I note the Council's reference to Policy H13 of the Local Plan Review on their decision notice. On my reading, and putting aside the sufficiency of the other policies I have cited, the policy seems to be more concerned with matters relating to residential development in other Use Classes and as such not directly relevant to this appeal scheme.

Other Matters

9. Concerns were raised on the high number of HMO's and the lack of parking provision in an area with parking pressures. As the proposal only involves a small increase in the number of bedrooms, I do not consider it would have an unacceptable impact on parking. The provision of a bicycle store is a matter that can be addressed by condition and thus encourage use of sustainable transport modes.

10. Reference has been made to the planning history of the site and a previous refusal. From the information available, that application related to a conversion of a conventional dwelling to a 8 bedroom HMO whereas this development is for a change of use from a 6 bedroom HMO to a 8 bedroom HMO. I have determined this appeal accordingly on its own merits.

Conditions

11. A number of planning conditions have been suggested by the two main parties. I have imposed a condition requiring compliance with the approved plans and to secure bicycle parking. It is also necessary for a condition relating to the commencement of development. The wording of some of the suggested conditions have been amended in the interests of conciseness and enforceability.
12. A condition has been suggested by the Council which seeks to limit the use to that applied for and also for each room to be single occupancy. For a larger HMO use, such as that proposed in this application, this would constitute a use on its own and I do not consider it necessary for a condition to be imposed that references other uses that are said to be permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015. I have also not been provided with any evidence that limiting the number of occupants is necessary and that a higher level of occupation would have different planning consequences on the amenities of the surrounding area given the appeal scheme is limited to 8 bedrooms.

Conclusion

13. For the reasons given I conclude that the appeal should succeed subject to the conditions set out above.

F Rafiq

INSPECTOR