

Appeal Decision

Site visit made on 21 February 2022

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9TH March 2022

Appeal Ref: APP/G2625/W/21/3277180

46 Earlham Green Lane, Norwich NR5 8HE

- 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 Paul Fosh against the decision of Norwich City Council.
 - The application Ref 21/00250/F, dated 19 February 2021, was refused by notice dated 6 April 2021.
 - The development proposed is change of use from Class C3 to Sui Generis (7 Bedroom HMO) with garage conversion, extension to garage conversion and extension link from the main house to the garage conversion.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would result in harm to the living conditions of future and neighbouring residents of the property.

Reasons

3. The proposal would result in the provision of a seven bedroom House in Multiple Occupation (HMO) with two kitchens and a separate dining room. Two of the first floor bedrooms would have en-suite bathrooms. There would be a shared bathroom within the original house which would serve three further bedrooms and a new bathroom within the garage conversion which would be close to the two new bedrooms in that conversion.

The proposed living accommodation

4. The layout of the internal areas would be contrived given that the second kitchen would be within the converted/extended garage requiring access through the dining room which would form a link between the two areas. Given that there would be a kitchen and bathroom in both parts of the property, with dining accommodation between, this would not be a significant issue. Generally, the shared accommodation would offer good levels of amenity.
 5. The use of the house reception rooms as bedrooms may result in some disturbance when other residents use the front door and the passage outside the rooms. The layout does offer the potential for residents to access the rear of the property from the converted garage and that entrance may be favoured
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- by the two residents of the bedrooms in that area. Whilst this may reduce the footfall from the front door, I am not satisfied that the use of the front door would in any event, result in unacceptable living conditions for the residents within the two large ground floor rooms.
6. Bedroom 3 is shown as being only 6.5m² in size and it is predominantly just over 1.8m wide. It would appear that this could accommodate a standard single bed either at the side or across the wider rear of the room. Either position would leave some room for other furniture although a furniture layout has not been demonstrated. It would be extremely cramped for an adult particularly when all other available accommodation would be shared with six unrelated persons. Whilst I appreciate that the resident would share good quality accommodation generally, this limited amount of space for private living would not be acceptable for long term use.
 7. Bedroom 7 would be 7.55m². This would also offer very limited accommodation for a single adult. The room would have a regular shape which may offer more furnishing options but it would nevertheless offer very limited amenity. The layout shown indicates a bed and desk as the only furniture. This room would not offer suitable accommodation within a large HMO. This room does not yet exist and has been designed as part of the proposed works. Creating a new room of these proportions for the proposed use represents poor design.
 8. Concerns have been raised that the use of the outside space by residents may harm the living conditions of the other ground floor residents in particular. This matter is considered further with regard to the impact on neighbouring residents. There is no reason why residents of HMO would not manage their behaviour in order to co-exist satisfactorily with their housemates but in any event, measures could be put in place to prevent any real concerns.
 9. The property offers a significant parking area. The Highway Officer does not object to the proposal and suggests that a maximum of 2 spaces would be required. Two spaces with the potential to manoeuvre within the site can be accommodated. However, this could not be controlled and there is the potential for more vehicles to park. Higher levels of parking could result in some cars being blocked by others. Furthermore, they would have to reverse in or out of the site. Although reversing from the site would increase potential conflicts with both pedestrians and vehicles, there is a wide combined verge and footpath and relatively good visibility, despite the presence of roadside trees. The parking arrangements do not encourage the use of additional vehicles and may encourage the use of other means of travel. Residents that own a vehicle could however park without significantly increasing highway safety concerns. Whilst multiple parked cars could result in inconvenience for residents if blocked by others, this would be a matter that the drivers would be expected to manage between themselves.
 10. Overall, whilst the proposal would offer good quality accommodation and facilities, the use of bedrooms 3 and 7 would be unacceptable with regard to the living conditions of future residents. Reference has been made to Policy DM13 which relates to flats, bedsits and larger HMO. With regard to this issue, part (a) seeks to achieve a high standard of amenity and living conditions for future residents in accordance with the criteria set out in Policy DM2. Policy DM2 similarly seeks a high standard of amenity, satisfactory living and working

conditions, adequate protection from noise and pollution and adequate levels of light and outlook for future occupiers. I find conflict with Policy DM13 and DM2 with regard to the adequacy of the two smallest bedrooms.

11. With regard to part c) of Policy DM13, a satisfactory standard of servicing, parking and amenity space for all residents would be achieved. Appropriately located bin storage, cycle storage and drying areas could be controlled by condition.
12. Policy DM2 requires that residential dwellings are designed to meet the demands of everyday life; adequate internal space must be provided and would normally be expected to exceed the City Council's indicative minimum guidelines for internal space standards. The supporting text sets out the standards that were in place in 2014 when the policy was adopted. Those space standards refer to the size of a dwelling overall and do not in any event relate to houses with seven bedrooms.
13. The supporting text advises that the standards should be used for guidance until such time as they are superseded by national space standards. Reference has been made to Nationally Described Space Standards which are clear that the requirements for bedrooms, storage and internal areas are relevant only to new dwellings. Despite Policy DM13 making reference to Policy DM2, they cannot be considered to apply to large HMO. I am not satisfied therefore that there are any up to date quantitative planning policy requirements with regard to HMO room sizes. Qualitative requirements must therefore be a matter of judgement.
14. The Nationally Described Space Standards are however informative. They require that to provide one bedspace in a dwelling, a single bedroom should have a floor area of at least 7.5m² and be at least 2.15m wide. Bedroom 3 would not meet the minimum requirement. Bedroom 7 would exceed the minimum by an indiscernible amount. For example, if the width of the room was reduced by 2cm it would fall below this standard. The proposed wall between bedroom 6 and 7 is shown as being unusually thin at 10cm wide. Whilst this may be achievable whilst still maintaining adequate noise protection between these bedrooms, if any greater thickness were required, then the room would fall below the minimum dimensions. This is a technical issue that is not of direct relevance as these standards apply to dwellings and are not directed at HMO in any event. The standards do however support my view with regard to the two smallest bedrooms. They would not achieve a high standard of amenity or living conditions for the residents of these two rooms, being the only private accommodation for a single person within a large HMO.
15. I acknowledge that this dwelling could be used as a HMO. In those circumstances, it is likely that bedroom 3 would be utilised as a bedroom. However, such a HMO would be materially different to a large HMO. In any event, as this proposal falls to be considered with regard to the council's policies, I must consider it on that basis. The two smallest bedrooms conflict with the qualitative requirements of Policies DM2 and DM13 in this regard. These policies do not conflict with any of the objectives of the *National Planning Policy Framework* and can therefore be afforded full weight.

16. Reference has been made to the Council's Private Sector Housing Amenity Standards 2018. This is a licensing document not a planning policy document. It contains the minimum standards required in all HMOs licensed by Norwich City Council. This sets out that a minimum bedroom size would be 6.51m² for one person. Bedroom 3 would exceed this minimum size by 0.01m². This does not support the view that it would provide a high standard of amenity. In any event, given the development plan status of the planning policies, I afford the requirements of the Private Sector Housing Amenity Standards significantly less weight than the qualitative policy requirements in the planning balance.
17. Overall, the proposal would offer a good standard of amenity with regard to parking and shared indoor and outdoor living space. For five of the seven residents it would also offer a good standard of private amenity space. However, for the two residents of the smallest rooms, it would offer poor private accommodation and the re-design of the garage to provide such poor accommodation would also represent poor design. In this respect, the proposal would be harmful to the living conditions of the future residents of rooms 3 and 7 and would conflict with Policies DM2 and DM13 which seek a high standard of amenity and living conditions for future residents.

The effect on neighbouring residents

18. The physical alterations to the property would not materially change the impact of it on the wider area or on the neighbouring residents. I have already concluded that the parking of vehicles within the site would not result in harm with regard to highway safety. Given the parking provision available, there is no reason to suggest that off-site parking on nearby roads would take place or would result in other concerns.
19. The property has a relatively generous plot with front and side garden areas. The use of the property by seven unrelated occupants may result in a greater intensity of use than a family. However, given the layout, it is unlikely that the comings and goings of the residents, including their supporting deliveries and other visitors, would be so noticeable as to harm the living conditions of the neighbouring residents or result in harm to the existing character of this property or the wider area.
20. The use of the outside space would have the potential to cause noise nuisance to neighbouring residents, particularly the residents of the attached house. This is most likely to occur immediately outside bedroom 5 as this section of the property is closest to the rear facing windows of the neighbouring property. This would not however be an attractive area to congregate and could be made less attractive by the use of landscaping or secondary fencing and this may be preferable in any event, to protect the amenities of the residents of bedrooms 5 and 2. Similarly, an attractive sitting out area could be provided beyond the existing patio area and that area could be amended to discourage activity in the vicinity of other bedrooms and the neighbouring house. These are matters that could be controlled to some extent by condition although in many respects, the potential for disturbance may be no greater than already exists. I am satisfied that measures could be put in place to ensure that the living conditions of neighbouring residents would not be unacceptably harmed. The proposal would not conflict with the 'Existing occupiers' section of Policy DM2.

Other matters and conclusions

21. The appellant has made reference to a fall-back position involving similar works to create a six bedroom HMO. It has been suggested that the changes proposed represent permitted development. It is not the purpose of this appeal to determine lawfulness as there is a clear procedure for such determinations. No formal determination has been made. The proposal includes substantial works to both create the linking extension and to convert the garage. Notwithstanding the lawfulness or otherwise of such works, there is no certainty that they would be carried out if this appeal fails. I am therefore not able to accept the fall-back position set out. It is clear however that this house could be converted to a more modest HMO without the need for extensions or planning consent and I have had regard to this possibility in considering the adequacy of the accommodation.
22. Policy DM13 accepts the principle of converting a dwelling to HMO. There is no evidence to suggest that this area is dominated by such accommodation or that this proposal would materially alter its character. Whilst the proposal would result in the loss of a family dwelling, this is balanced by the provision of new shared accommodation. There is no clear evidence that the benefits of a large HMO should outweigh the benefits of the retention of a single dwelling. The appellant has set out the need for HMO which has not been disputed. I do not accept however that the previous marketing of this property indicates that there is no demand for three bedroom houses. In any event, even if I accept the appellant's view that there is a greater need for large HMO, this would offer only moderate weight in favour of the proposal.
23. Overall, the works proposed would represent poor design in that they would result in a new bedroom (7) that would fail to offer a high standard of amenity or living conditions. Bedroom 3 would be even less satisfactory. Whilst a fall-back position may result in bedroom 3 becoming used as part of a HMO, I am not satisfied that it is inevitable that it would be within a property that would be as intensively used as is now proposed. In any event, this proposal falls to be considered under the policies of the development plan. Policies DM2 and DM13 seek a high standard of amenity and living conditions for future residents. This proposal would not result in such conditions for the residents of bedrooms 3 and 7. Even on the basis of the appellant's assessment of the greater need for HMO, this would not be sufficient to outweigh my concerns with regard to the quality of the accommodation, particularly as this could clearly be improved by better design and/or lower numbers of occupants.
24. As the matters put forward in support of the proposal do not outweigh either my concerns or the conflict with the development plan, I dismiss the appeal.

Peter Eggleton

INSPECTOR