

Appeal Decision

Site visit made on 9 May 2022

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2022

Appeal Ref: APP/W2465/W/22/3291696

5 Bowling Green Street, Leicester LE1 6AS

- 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 Richard Hames 5BGS Ltd against the decision of Leicester City Council.
 - The application Ref 20211305, dated 21 May 2021, was refused by notice dated 30 July 2021.
 - The development proposed is the change of use from office (Class E) to 4-bedroom house in multiple occupation (HMO) (Class 4); alterations.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Richard Hames 5BGS Ltd against Leicester City Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The application was originally submitted for a 5-bedroom HMO but an email to the Council dated 23 July 2021 amended the scheme to a 4-bedroom HMO as shown on Plan 21,007-P-301 Rev H.

Main Issue

4. The main issue is whether the proposal would provide acceptable living conditions for future occupiers in relation to light, outlook and privacy.

Reasons

5. The proposal is for the conversion of the ground floor of No 5, a vacant three storey office building in the city centre, to a 4-bedroom HMO. Two bedrooms would be located on the street elevation with front facing windows, two at the back of the property with windows facing a rear courtyard, and communal lounge and kitchen areas facing onto an inner courtyard in between.
6. Whilst bedrooms 1 and 2 with front facing windows onto the street would have adequate outlook, bedrooms 3 and 4 would have single aspect windows facing onto a small internal courtyard about 4 m by 3.5 m surrounded by buildings. Bedroom 3 would face a boundary wall only about 3.5 m away, just behind which lies the three-storey building No 6-8 Market Street, whilst Bedroom 4 would face the five-storey high Norwich House only about 4 m away. Whether or not the level of natural light provided in each room would be satisfactory,

the outlook of a blank wall just a few metres away in each case would be overbearing and lead to an oppressive sense of enclosure, regardless of how the courtyard walls were treated or the courtyard itself landscaped.

7. In addition, whilst not raised by the Council, the one-way privacy film on these bedroom windows would not prevent the perceived loss of privacy due to other occupiers using the courtyard for leisure purposes immediately outside, as well as the likelihood of noise and disturbance. The privacy of those using the courtyard would also be compromised by real or perceived overlooking from upper floor rear windows in both 6-8 Market Street and Norwich House. A retractable awning would reduce the level of light in the courtyard/bedrooms.
8. Secondly, the communal lounge/dining room would face onto an even smaller courtyard, about 3.5 m by 3 m, with its single aspect window facing a three-storey building only about 3 m away. Again, this would result in an oppressive sense of enclosure regardless of the design of the courtyard. In addition, the lounge/dining room would not receive adequate natural light, the appellant's Internal Daylight Analysis dated 21 May 2021 showing only 19% of the working plane in this room¹ would have a view of the sky, indicating a poor distribution of light in the room and falling well short of the usually accepted standard of 80%. The lounge/dining room would be an L-shape which would reduce the percentage still further compared to the room shape analysed.
9. The appellant argues that various schemes approved nearby in the city centre are similar to the proposal. However, each scheme is necessarily unique. It is not possible given the complexity of the individual cases and the lack of site visits to establish that the schemes are truly comparable in all respects and in any event the appeal proposal should be determined on its own merits.
10. For these reasons the proposal would not provide acceptable living conditions for future occupiers in relation to light, outlook and privacy. This would conflict with Policy CS03 of the Leicester City Core Strategy 2014 and Policies H07 and PS10 of the City of Leicester Local Plan 2006. These require spaces that are fit for purpose, flat conversions to provide a satisfactory living environment and the amenity of residents to be taken into account.

Conclusion

11. Under permitted development rights a series of prior approvals have now been issued for the use of the ground floor as residential flats. However, a more limited range of considerations apply to such applications.
12. Whilst the Council cannot currently demonstrate a five-year supply of housing land, the proposal would only provide one 4-bed HMO at the cost of potential Class E space within the city centre. Notwithstanding the location of the site within the 'Central Area' of the city where maximum densities are appropriate, the adverse living conditions that would result from granting permission significantly and demonstrably outweigh the benefits in this case.
13. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

¹ Bedroom 3 in the 5 bed HMO layout