



Appeal Decision

Site visit made on 3 May 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 July 2022

Appeal Ref: APP/Y1110/W/22/3290868

16 to 18 Sidwell Street, Exeter EX4 6NN

- 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 Stephen Force against the decision of Exeter City Council.
 - The application Ref 21/1638/FUL, dated 22 October 2021, was refused by notice dated 21 December 2021.
 - The development proposed is change of use of first and second floor from mixed use (Use Class C3 dwellinghouse and Sui Generis betting office) to House in Multiple Occupation for six residents (Use Class C4).
-

Decision

1. The appeal is allowed and planning permission is granted for the proposed change of use of first and second floor from mixed use (Use Class C3 dwellinghouse and Sui Generis betting office) to House in Multiple Occupation for six residents (Use Class C4), at 16 to 18 Sidwell Street, Exeter EX4 6NN in accordance with the terms of the application, Ref 21/1638/FUL, dated 22 October 2021, subject to the conditions set out in the Schedule below

Preliminary Matters

2. I have taken the description of development above from the Council's Decision Notice, as this more accurately describes the proposal than that on the planning application form. The revised description makes clear that the House in Multiple Occupation (HMO) would be for six residents within Use Class C4 (rather than seven residents or for sui generis use).
3. It is also more accurate to describe the site as 16 to 18 Sidwell Street, rather than 16 Sidwell Street as stated on the planning application form. The appellant has used the revised description and address on the appeal form and so I am satisfied that no parties would be prejudiced as a result.

Main Issues

4. The main issues are:
 - The effect of the proposal on the living conditions of the occupiers of the proposed accommodation and Flats 2 and 3, 17 and 18 Sidwell Street, in respect of privacy;
 - The effect of the proposal on the character, mix and balance of the local community; and
 - Whether the proposal would promote and maximise sustainable transport for future occupiers.

Reasons

Living Conditions

5. The appeal site consists of the first and second floors of 16 Sidwell Street and part of the first floor of 17 and 18 Sidwell Street. Flats 2 and 3 of Nos 17 and 18 have windows facing onto a flat-roof area behind No 16, with Flat 4 at second floor level above.
6. Ensuring the privacy of occupants is important notwithstanding that a degree of intervisibility is to be expected in urban locations. However, the proposed new windows to the rear elevation of No 16 would be perpendicular to those of the adjacent flats. This means that occupiers of the new accommodation would only see across the windows of the neighbouring flats, at an oblique angle, and vice versa. There would be no directly facing views into these windows and therefore neighbours' privacy would be maintained.
7. Representations have referred to the potential use of the proposed fire door, to allow future occupants to use the flat roofed area to the rear as a form of outdoor recreational open space. The concern is that this use could result in noise and disturbance to Flats 2 and 3 immediately adjacent.
8. However, I saw that this area is currently accessible to residents of the flats via the existing fire escape stairwell, as is the whole of the flat roof area. Any recreational use of this area could therefore take place already. Whilst the proposal would introduce further residential use and access, I note that the Council has not raised concerns about the fire door or future use of this area.
9. For the reasons given above, I conclude that the proposal would not harm the living conditions of the occupiers of the proposed accommodation or Flats 2 and 3, 17 and 18 Sidwell Street, in respect of privacy.
10. As such, the proposal would comply with Policy C1(b) of the Exeter St James Neighbourhood Plan 2013 (NP), and Saved Policy DG4 of the LPFR, both of which require a high standard and quality of living conditions. It would also comply with Policy DD11 of the Exeter Development Delivery Development Plan Document Publication Version July 2015 (EDD) for the same reasons, although this does not form part of an adopted or emerging Development Plan, and so carries little weight.
11. Saved Policy H5 of the Exeter Local Plan First Review 1995-2011 (LPFR) has been referred to, but this is only relevant to the conversion of dwellings, rather than to the uses involved here. Although the policy also refers to student housing, the proposed HMO may not necessarily be occupied by students. Policy H5 does not therefore apply to the development before me.

The character, mix and balance of the local community

12. Much of the wider area consists of residential properties, some of which have been divided into flats and HMOs, mainly for student accommodation. I accept that the number of Council Tax exemptions in the Article 4 area is indicative of a loss of family accommodation.
13. The proposal would result in the loss of the existing family flat, introducing a new HMO, and therefore adding to the number of such uses. I have noted too

the representations about the potential effect of the proposed HMO on the area.

14. However, the supporting text to NP Policy C1 refers to the proportion of students living in residential streets, whereas it is common ground that the area immediately around the appeal site forms part of the city centre. Whilst there are some residential uses locally, for instance above shops, its character is predominantly commercial, consisting mainly of high street stores and associated uses, including on the appeal site's ground floors.
15. The area's character, mix and balance are therefore already very different from the residential areas of the St James neighbourhood that the Council's policy framework seeks to protect. The dispersed nature of the residential properties means that they are already to some extent diluted by other uses.
16. In this context, the effect of the proposed development would be small and would not undermine the area's commercial character, or the mix or balance of residential uses. I have considered the appeal decision at 21 New North Road¹ but this relates to a proposed hotel and so is not directly comparable to this proposal.
17. I therefore conclude that the proposal would not harm the character, mix or balance of the local community. As such, I find no conflict with NP Policy C1, LPFR Saved Policy H5, EDD Policy DD11, or the 'Houses in Multiple Occupation (including Class C4 uses)' Supplementary Planning Document 2014. These policies and guidance seek to prevent further HMOs where they would result in an over-concentration of such uses and where that would change the area's character or undermine its balance or mix.
18. For similar reasons, I also see no conflict with the requirements of paragraph 92 of the National Planning Policy Framework (the Framework) which requires new development to be inclusive and encourage social interaction.

Sustainable Transport

19. The proposal would provide no additional cycle parking spaces for future occupiers. It is common ground that this is below the minimum number of spaces required by both LPFR Policy T3 and the Sustainable Transport Supplementary Planning Document 2013 (the Transport SPD) in their aim to promote and maximise sustainable transport.
20. Whilst the proposal would result in an increase in the number of occupiers, the site's city centre location means it is particularly well-located for access to services and facilities. It also has regular public transport provision within easy walking distance. This means that despite the absence of cycle parking, occupants would be able to use sustainable transport options for many journeys to key destinations.
21. The Council suggests that cycle parking may be provided within the site if further internal alterations were proposed. From my visit, I saw that the stepped corridors and lack of space, particularly at ground floor level, would make cycle parking and storage difficult. Furthermore, the Transport SPD states specifically that its cycle parking requirements may be more difficult to achieve with conversions, rather than new-build development.

¹ APP/Y1110/A/11/2159738

22. Therefore, despite the specific conflict with LPFR Policy T3 and the Transport SPD, the site's accessible location would promote and maximise sustainable transport for future occupiers. The absence of provision for secure cycle parking is the appropriate quantity here, and so would comply with the requirements of NP Policy C1 and EDD Policy DD11, as well as the Framework's encouragement for development to enable and support healthy lifestyles.

Other Matters

23. I have noted concerns in respect of the standard of accommodation for future occupants. However, I have no substantive evidence that the proposal would not provide an adequate standard or amount of space for its users.

Conditions

24. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance (PPG).

25. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty. In order to ensure that the living conditions of future residents are acceptable, a condition is required to ensure that both sustainable acoustic and thermal comfort are achieved. In order to ensure adequate mitigation at the earliest stage, I agree that a pre-commencement condition is necessary.

26. A condition is also required to control the hours of construction work, in the interests of the living conditions of nearby residents. The Council has suggested that a condition is required in respect of external materials. However, given the small extent of external change proposed, their limited visibility and the details already provided, I do not consider that further details are required.

Conclusion

27. For the reasons given above, having had regard to the Development Plan as a whole, I conclude that the appeal should be allowed subject to the conditions set out below.

O Marigold

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Combined Plans Drawing number 21/29/01.
- 3) No development shall take place until an assessment of ambient noise levels and overheating conditions, and recommended mitigation measures as necessary, to ensure that both sustainable acoustic comfort and sustainable thermal comfort are achieved, has been submitted to and approved, in writing, by the Local Planning Authority. The approved development shall not be occupied until all agreed mitigation measures

have been implemented. The approved mitigation measures shall be maintained thereafter.

- 4) No site machinery or plant shall be operated, no construction process shall be carried out and no demolition or construction-related deliveries received or dispatched from the site except between the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 Saturday and at no time on Sundays, Bank or Public Holidays.

*****End of Conditions*****