



Appeal Decision

Site visit made on 8 November 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/M2515/W/22/3301691

17 Charles Street West, Lincoln LN1 1QP

- 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 Simon Dalby of IMNOS Properties Limited against the decision of City of Lincoln Council.
 - The application Ref 2022/0089/FUL, dated 7 February 2022, was refused by notice dated 24 March 2022.
 - The development proposed is described as the 'conversion of existing rear off-shoot (currently Class C4) of existing 6 Bedroom HMO property to create an independent detached dwelling (proposed use Class C3). Works include the partial demolition of rear off shoot and rebuild of gable end and creation of communal garden areas for existing HMO and proposed property'.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing rear off-shoot (currently Class C4) of existing 6 Bedroom HMO property to create an independent detached dwelling (proposed use Class C3). Works include the creation of communal garden areas for existing HMO and proposed property at 17 Charles Street West, Lincoln LN1 1QP in accordance with the terms of the application, Ref 2022/0089/FUL, dated 7 February 2022, 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: 1815D/22/12B and 1815D/22/13B.

Preliminary Matters

2. It was originally proposed to demolish a section of the existing rear off-shoot. However, amended plans were submitted during the Council's consideration of the application showing the retention of this structure. I have determined the appeal based on those amended plans. In addition, to reflect the amendment, I have changed the description of the development in the decision above from that set out in the heading, which has been taken from the planning application form.

Main Issues

3. The main issues are the effects of the development on:
 - the character and appearance of the area with particular reference to the subdivision of the rear yard; and

- the mix and balance of the community.

Reasons

Character and appearance

4. 17 Charles Street West is a two-storey mid terrace property with a substantial rear off-shoot. It is within a predominantly residential area largely comprising terraced housing. The main part of the appeal property that fronts onto Charles Street West is in use as a six-bedroom House in Multiple Occupation (HMO).
5. I noted on my visit that views into the rear yard are very limited from the public highway. The proposed enclosed area to form a separate garden for the HMO would be tucked in behind the main two-storey building. Given the distance from the pavement the proposed enclosure would not be prominent in views from the public highway. In addition, whilst the changes could be observed from the rear of neighbouring properties, such views would also be partially restricted due to the extent of the existing rear off-shoot which is, in part, two storeys in height. Noting the small area of the total yard that is to be enclosed, I consider that such a change would have a limited and not unacceptable impact on the character and appearance of the area. Therefore, the proposal would not represent inappropriate backland development.
6. For these reasons, I find that the proposal would not result in harm to the character and appearance of the area with reference to the subdivision of the rear yard. Consequently, I find no conflict with Policy LP26 of the Central Lincolnshire Local Plan (LP), adopted 2017 which seek to achieve high quality sustainable development. It would also achieve the design aims set out in the National Planning Policy Framework (the Framework).

Mix and balance of the community

7. The City of Lincoln Council Houses in Multiple Occupation Supplementary Planning Document updated in October 2019 (SPD), referred to in the Council's decision, states its purpose is to manage the future development of HMOs to ensure that they will not lead to or increase existing over-concentrations of HMOs which are considered harmful to communities. It sets out that to assess whether or not there is an over-concentration of HMO uses, a 10% maximum concentration should be applied based on a 100 metre radius of the site location.
8. The Council indicate that the Carholme Ward, within which the appeal site is located, has historically experienced a high proportion of HMOs and student occupation. Indeed, it was evident on my site visit that a high proportion of the properties in the area are in use as HMOs. In the absence of any evidence to the contrary, I have no reason to disagree with the Council's assertion that the concentration of HMOs within a 100-metre radius is more than 40% and as such exceeds the maximum set out in the SPD.
9. The appeal proposal is, however, the conversion of an existing building to form a fully independent one-bedroom dwelling. It does not involve the introduction of a further HMO or result in an increase in occupants of the existing HMO. The appeal proposal would not result in the loss of a family home. Additionally, there is no compelling evidence that suggests the appeal proposal would prevent the main property being turned back into family accommodation at a future date. Moreover, no evidence has been presented that demonstrates that

there is an overprovision of one-bedroom dwellings in the area or that there is not a need for that type of accommodation. Consequently, there is no basis upon which to conclude that the proposal would worsen the existing imbalance in the community. Conversely, by providing a type of accommodation that differs from that prevailing in the area the proposal would make a positive contribution to the mix and balance of housing provision in the locality, albeit a small one.

10. The Council refer to the proposal resulting in more occupants on this site in an area where there is a higher-than-average volume of occupants due to the already high concentration of existing HMOs. Whilst there is no doubt that the number of occupants on the site will increase the Council have not identified any other issues arising from such an increase. The appeal site is in a densely developed residential area where the introduction of a small number of additional residents is unlikely to generate more activity and noise than the existing use of the site. Overlooking of rear gardens and between rear windows is typical in this area and the proposal would not unacceptably increase the level of such overlooking. The rear yard is of a sufficient size to accommodate bin and cycle storage for the proposal. The Highway Authority have raised no objections on parking or highway safety grounds and given the scale of the proposal I concur. Taking such factors into consideration and in the absence of any evidence that would suggest otherwise, there is no basis to conclude that the proposal would be an unacceptable over-intensification of the existing use of the site.
11. The Council has referred to a planning obligation as a way of limiting student numbers where the concentration is already high. The appellant, however, has not offered such a planning obligation indicating that it is not necessary due to the modest size of the self-contained unit. I agree with the appellant that such accommodation is unlikely to be lived in by a student, as they typically prefer the social and financial benefits of communal living. However, even if the accommodation were to be occupied by students this would not materially affect the community balance given such a small number of occupants.
12. Accordingly, I am not persuaded that such a restriction would be necessary to make the development acceptable, would be directly related to the development and would be fairly and reasonably related in scale and kind. Accordingly, I am unable to conclude that a planning obligation seeking to prevent occupation by students would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation does not weigh against the development.
13. Taking the above matters into consideration, I conclude that the proposal would not have an unacceptable impact on the mix and balance of the community. I therefore find no conflict with LP Policy LP2, the SPD or the Framework which seek to create strong, sustainable, cohesive and inclusive communities.

Other Matters

14. The Council has raised no specific objections to the proposal on the basis that cycle storage is not identified on the appeal plans, and I note that the rear yard area could accommodate such storage.

15. There is no proposal to amend the extent of hard surfacing within the rear yard, which is currently entirely paved. As such the proposal will not have a material and adverse impact on biodiversity or rainwater run-off.
16. The potential for the applicant to make a profit from the proposal is not a material consideration to which I can attach significant weight in making my decision.
17. Overall, I find no harm regarding the matters I have referred to in this section and such matters don't provide reason to withhold planning permission

Conditions

18. In addition to the time limit condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.

Conclusion

19. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations, including the Framework, the appeal should be allowed.

Elaine Moulton

INSPECTOR