



Appeal Decision

Site visit made on 15 November 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 5 December 2023

Appeal Ref: APP/M2515/W/23/3322590

43 Queen Street, Lincoln LN5 8LB

- 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 Ian Booth against the decision of the City of Lincoln Council.
 - The application Ref 2022/0944/C4, dated 15 November 2022, was refused by notice dated 12 January 2023.
 - The development proposed is the change of use from C3 to C4.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit, I observed that the change of use has already taken place. I also note that the application has been submitted retrospectively. Therefore, I have dealt with the appeal on that basis.
3. The Central Lincolnshire Local Plan (April 2023) (CLLP) was adopted by the Central Lincolnshire Joint Strategic Planning Committee on 13 April 2023 and replaces the previous Central Lincolnshire Local Plan (April 2017). Both main parties have had the opportunity to comment on the implications of this for the appeal and I have taken the CLLP into account in coming to my decision.

Main Issues

4. The main issues are:
 - the effect of the development on the district's supply of single-family housing; and
 - whether the development would be acceptable with respect to flood risk.

Reasons

Supply of single-family housing

5. The area is urban with a dense street grain, it comprises a mixture of semi-detached and terraced houses as well as several purpose-built flats. There is an Article 4 Direction in place in the area which seeks to control the conversion of buildings from C3 use to C4 use. The appeal property is an extended end terrace house with four bedrooms, including one bedroom located on the ground floor. There is a communal living space which provides access to the large rear garden.
6. CLLP Policy S25 supports the conversion or change of use of existing dwellings to shared accommodation including houses in multiple occupation (HMOs)

subject to certain criteria. Criterion b requires that it is demonstrated that there is an established lack of demand for the single-family use of the property concerned.

7. Whilst the development has not resulted in an over-concentration of HMOs in the area, there has been a reduction in single-family houses. The property is located in a relatively busy urban area, in close proximity to the Lincoln City Football Club stadium. However, this does not preclude family occupation. The property would provide ample accommodation for a family and benefits from a large garden, appropriate for family use.
8. I acknowledge that HMOs are a necessary type of housing, that plays a valuable role in providing a balanced housing stock and that there appears to be a demand for HMOs in the area. Nevertheless, I have no substantiated evidence before me to suggest that there is an established lack of demand for the single-family use of the property concerned. Similarly, there is conflict with the Houses in Multiple Occupation Supplementary Planning Document where it requires evidence that the property has been openly marketed at a reasonable purchase or rental price for a period of at least six months.
9. Therefore, I conclude that the development has materially harmed the district's supply of single-family housing. The development conflicts with Policy S25 of the CLLP where it seeks to control the conversion of existing dwellings and buildings. The development also conflicts with the National Planning Policy Framework (the Framework) where it requires the size, type and tenure of housing needed for different groups, including families to be assessed.

Flood risk

10. The appeal site lies within flood zone 3 as defined on the Environment Agency's flood map. The Planning Practice Guidance (PPG) states that in flood zone 3 there is a high probability of flooding. Moreover, the PPG and the Framework advise that proposals for development in flood zone 3 should be accompanied by a Flood Risk Assessment (FRA).
11. A FRA has not been provided. The appellant asserts that a FRA is not required as the building is existing and that if the house were in C3 use, ground floor bedrooms could be implemented without an approval. Notwithstanding this, a FRA is required regardless of whether the development is only for a change of use, to ensure flood risks are adequately addressed. Whilst it has been suggested that mitigation measures could be secured via condition, without a FRA I am unable to determine which measures if any would be required.
12. My attention has been drawn to other properties in the area that have ground floor bedrooms. However, I have not been provided with the details of these properties or any mitigation measures which may be in place. Moreover, the existence of other ground floor bedrooms in the area does not adequately address the need for a site-specific FRA.
13. Consequently, I am unable to determine whether the development would be acceptable with respect to flood risk. As such, I must take a precautionary approach and find that the development conflicts with Policy S21 of the CLLP which requires development to demonstrate that the risk of flooding is not increased, that it would be safe for its lifetime and could be quickly brought back into use without significant refurbishment and that any necessary flood

mitigation measures have been agreed. There is also conflict with the Framework as set out above.

Other Matters

14. The change of use has not altered the external appearance of the property, resulted in an increased level of noise or disturbance or negatively affected highway safety or residential amenity. The property is in an accessible location that is suitable for single occupancy tenures. Nevertheless, these matters do not outweigh the conflict as identified above.

Conclusion

15. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework that would outweigh that conflict. Therefore, the appeal is dismissed.

K Allen

INSPECTOR