
Appeal Decision

Site visit made on 6 December 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17.01.2024

Appeal Ref: APP/V2004/W/23/3323097

Nicholson House, 97 Mirfield Grove, Kingston-Upon-Hull HU9 4QR

- 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 O Babarinde against the decision of Hull City Council.
 - The application Ref 22/01719/FULL, dated 22 December 2022, was refused by notice dated 5 April 2023.
 - The development proposed is a change of use of former care home to 50-bedroom HMO.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of former care home to 50-bedroom House in Multiple Occupation at Nicholson House, 97 Mirfield Grove, Kingston-Upon-Hull HU9 4QR in accordance with the terms of the application Ref 22/01719/FULL, dated 22 December 2022, subject to the conditions set out in the schedule to this decision.

Procedural and preliminary matters

2. While the appellant has described the proposal as in the above heading, the Council has additionally referred to the installation of solar panels on the roof and external alterations involving the blocking up and creation of new windows and doors. From my inspection of the plans, I consider that the Council's description more fully reflects the development sought. I have assessed the appeal scheme on that basis.
3. For clarity, the description of development in my decision refers to a House in Multiple Occupation rather than the abbreviated version, HMO, as stated on the application form lodged with the Council.
4. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. The Framework does not raise any new matters that are determinative to the outcome of this appeal.

Main issues

5. The main issues are the effect of the proposed development on the character and amenity of the local area and on the living conditions of the occupiers of nearby properties with particular regard to potential noise and disturbance.

Reasons

6. Nicholson House is a detached 2-storey building within an estate style residential area within which there is a mix of houses and flats, many of which

are suitable for families. The proposal is to convert and alter the property, which was formerly a care home and is now vacant, to a House in Multiple Occupation (HMO). The HMO would include 50 ensuite bedrooms with communal kitchen and dining areas, gardens, and off-road parking. Based on the guidance set out in the Hull Local Plan 2016 to 2032 (LP), the Council estimates that the new HMO could accommodate up to 64 unrelated people. From my inspection of the plans, I have no reason to differ from that opinion.

7. The Council has recently granted planning permission to convert and alter the appeal property to a 40-bedroom HMO, which I shall refer to hereafter as the approved scheme. Compared to the approved scheme, the proposal has a different internal layout and 10 additional bedrooms. The Officer's report notes that the approved scheme could be occupied by up to 61 unrelated people based on LP guidance although the Council's evidence indicates that a capacity of between 40 to 50 residents is more likely given the format and layout of that development. To my mind, the approved scheme is a realistic fall-back position against which to assess the proposed development.
8. No objection is raised by the Council on the grounds that the proposal would lead to a concentration of similar uses, to which LP Policy 7 (Part 2a) refers. Even so, I recognise that HMOs can sometimes have a disruptive effect on a settled residential community and the character and amenity of an area because the lifestyle, work patterns and values of some residents can differ to those of others. In general terms, the occupiers of HMOs are also more likely to be transient, with less interest in the long-term well-being of the area. As the proposal could be occupied by more residents than the approved scheme, with a predominance of single people, the Council and others are concerned that various problems will arise or get worse if the proposal were to proceed.
9. If the new HMO were fully occupied it is possible that compared to the occupiers of a 40-bedroom HMO there would be some extra activity associated with additional unrelated residents, such as the general coming and going of people and their visitors to the property, including vehicle movements. However, there is no convincing evidence before me that the additional noise and general disturbance associated with these movements would be so great as to materially harm the residential character and amenity of the area.
10. The accommodation proposed may well appeal to younger and more active people that could take advantage of the outdoor space available around the building. However, I am not persuaded that the additional noise and general disturbance associated with this outdoor activity would be so great as to materially harm the character and amenity of the local area. I note that the Council's Environmental Protection Team makes no comment on the proposal.
11. Reference is made to a recent appeal decision that involved a change of use from a dwelling to a HMO at 16 Dover Street, Hull. In assessing the potential for noise and disturbance for neighbours, the Inspector concluded in that case that the HMO would have a disruptive effect given the contrasting lifestyle and independent routines of individual occupiers compared to those of family members. In this instance, the accommodation to be provided at Nicholson House would be unsuited to families and the fall-back position is a smaller HMO or a care home if the previous use were to be resurrected, rather than a family house. Consequently, the distinctions drawn by the Inspector at Dover Street between the likely movements of HMO residents and family members would be

less directly relevant in this case. While I have carefully considered the Inspector's findings at Dover Street, it is not directly comparable with the proposal before me. As such, I attach only limited weight to the appeal decision in support of the Council's case.

12. In my view, the proposal would not manifest itself significantly differently from the approved scheme in terms its effect on the character and amenity of the area or on the living conditions of others. Furthermore, I am unable to share the opinion of the Council and others that the appeal scheme would lead to an overly intensive use of the property and that it would overdevelop the site.
13. Therefore, I conclude on the main issues that the proposal would not materially harm the character and amenity of the local area or the living conditions of the occupiers of nearby properties. As such, there is no conflict with LP Policy 7 insofar as it aims to safeguard residential amenity and the character and amenity of the area. It also complies with the Framework, which states that planning decisions should support development that makes efficient use of land, having regard to the desirability of maintaining an area's prevailing character and setting; and ensure a high standard of amenity for users.

Other matters

14. The Highway Authority raises no objection to the proposal in relation to parking provision and highway safety, with which I have no reason to disagree. I saw that Mirfield Grove is narrow in places and well used for on-street parking. Residents clearly experience difficulties from parked vehicles along the road that can block driveways and obstruct footway users. However, the Council considers that the level of on-site parking is acceptable, and the site is within convenient walking distance of bus services, places of employment and local services. Secure cycle and scooter storage would be provided on site. As such, not all future occupiers of the new HMO would necessarily be regular car users. While I acknowledge the existing problems posed by parking along Mirfield Grove, I have no convincing evidence to clearly show that these issues would be significantly worse if the appeal scheme were to proceed.
15. Many objectors refer to local problems of anti-social behaviour, drug use, crime, and community tension. The Police Architectural Liaison Officer states that CCTV, external lighting, access control and robust internal doors could be a first line of defence to address these issues, which could be required under a crime prevention plan (CPP) and covered by a condition. With a CPP in place and fully adhered to, I am not persuaded that these issues, or the fear thereof, provide sufficient justification to withhold planning permission.
16. The Officer's report notes that the standard and layout of the proposed accommodation would meet the Council's space standards and provide an acceptable level of amenity for future occupants of the HMO. I have no reason to disagree with that finding. There is nothing substantive before me to indicate that the refuse storage arrangements on site would be inadequate or give rise to problems such as smells reaching the rooms of nearby properties. Similarly, I am not persuaded that the proposal would lead to undue pressure on local schools or the local health centre.
17. Reference is made to the vulnerability of some sections of the local community, particularly families with young children, elderly people, and residents with mental and physical health issues. However, I am not persuaded that the

proposal would pose a risk to the health or safety of these people or others, nor unacceptably weaken the cohesion and stability of the local community.

18. The development has attracted strong local opposition including a petition of against the proposal. However, the level of objection is not, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons, which are supported by substantial evidence. Having considered all the submitted representations, and all evidence before me, I am not persuaded that the objections raised outweigh my findings in relation to the main issues.
19. The Council raises no objection to the proposed photo-voltaic panels or to various changes sought to several door and window openings. I, too, find these alterations acceptable in their design and general appearance. There would be no harmful effect on the character and appearance of the appeal property as a result.

Conditions

20. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. In the interests of highway safety, conditions are necessary to require that on-site vehicle parking is provided and retained and, to also safeguard residential amenity, that a management scheme for car park 4 is in place to ensure it is used solely for vehicle parking. A condition to provide bicycle, motorcycle and scooter storage is also required to promote sustainable transport. A condition relating to refuse storage is necessary to ensure that the development has a satisfactory appearance.
21. The proposal has been assessed as a single HMO. Several different HMOs within the same building could have different requirements for open space provision and different consequences for the character of the area and the living conditions of others. A condition is therefore imposed to clarify that the planning permission is for a single HMO. A condition is imposed to ensure that the mitigation measures in the appellant's flood risk assessment are implemented to protect future occupiers from flooding. To minimise the opportunities for crime, a condition is necessary to require details relating to CCTV, lighting of footpaths, communal areas, and access control. Where necessary, I have amended some of the Council's suggested conditions for clarity and precision.

Conclusion

22. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be allowed subject to the conditions set out below.

Gary Deane

INSPECTOR

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Schedule of conditions

- 1) The development hereby permitted shall begin not 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 plans: Refs J8196-201, J8196-202, J8196-203 Rev H, J8196-204, J8196-205, J8196-206, J8196-207 Rev H, J8196-208 Rev J, J8196-209 Rev E, J8196-210, J8196-211 Rev B, J8196-212 Revision A, LTP/5411/T1/01/04 Revision A, LTP/5411/T1/01/03 Revision 0, LTP/5411/T1/01/02 Revision 0 and LTP/5411/T1/01/01 Revision 0.
- 3) Prior to first occupation of the property as a HMO, space shall be laid out within the site in accordance with the approved plans for vehicle parking. The space for vehicle parking shall always be kept available for these purposes and shall be permanently retained as such thereafter.
- 4) Prior to first occupation of the property as a HMO, a management scheme for the on-site vehicle parking areas shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision for electronic gates and ensure that car park 4 as identified on drawing number J8196-203 Rev H remains enclosed by gates and fencing and shall only be for the use of residents parking, if required. The management scheme shall thereafter be operated fully in accordance with the approved scheme.
- 5) Prior to first occupation of the property as a HMO, secure bicycle, motorcycle, and scooter parking facilities shall be provided in accordance with drawing number J8196-211 Rev B. The approved bicycle, motorcycle and scooter parking facilities shall be permanently retained thereafter.
- 6) Prior to first occupation of the property as a HMO, refuse storage facilities shall be provided in accordance with drawing number J8196-210. The approved refuse storage facilities shall be permanently retained thereafter.
- 7) The use hereby approved shall operate as one unit only.
- 8) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment Report dated 22 December 2022, and the following mitigation measures detailed within it: a) the development must utilise a water exclusion strategy with the use of flood proof doors to exclude water to a minimum of 3.4m AOD. The specific scheme and mitigation measures used must be approved by Hull City Council; and b) unrestricted access to a designated internal place of safety above 4.0m AOD must be provided for each residential unit. The approved measures shall be completed before any residential unit hereby approved is occupied or in accordance with a timetable that has previously been agreed in writing by the Local Planning Authority.
- 9) Prior to first occupation of the property as a HMO, a crime prevention scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include: a) lighting of footpaths; b) CCTV coverage; c) communal areas; d) access control; and e) an implementation timetable. The approved crime prevention scheme shall be permanently retained thereafter.