



Appeal Decision

Site visit made on 4 June 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2024

Appeal Ref: APP/C1055/W/23/3335820

210 Derby Road, Spondon, Derby DE21 7LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Katie Chadwick-Bloore, Yourspace Property Group against the decision of Derby City Council.
 - The application Ref is 23/00502/FUL.
 - The development proposed is change of use from six bedroom (C4) HMO to seven bedroom, eight occupant (Sui Generis) HMO.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from six bedroom (C4) HMO to seven bedroom, eight occupant (Sui Generis) HMO at 210 Derby Road, Derby DE21 7LU in accordance with the terms of the application, Ref 23/00502/FUL, subject to the following 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:
 - Site Location Plan 21050-P-500
 - Proposed Plans and Elevations 21050-P-502
 - Proposed Site Layout 21050-P-503
 - 3) The sui generis HMO hereby approved shall only be occupied by a maximum of eight (8) persons.
 - 4) The development hereby permitted shall not be occupied until the cycle parking provision shown on the approved plans has been fully implemented and made available for use. The cycle parking facilities shall thereafter be kept free from obstruction and be retained for use for the parking of cycles by the occupants of, and visitors to, the development at all times.

Preliminary Matter

2. The Council's reason for refusal references a proposed development at the adjoining property, 208 Derby Road (No 208), stating that the cumulative impact of the appeal proposal and the proposed development at No 208, which is in the same ownership as the appeal property, would be injurious to the residential amenities enjoyed at neighbouring properties. However, an application to change No 208 from a six-bedroom (six occupant) house in

multiple occupation (HMO) to a six-bedroom (nine occupant) HMO¹ was subsequently refused by the Council. No 208 is therefore in use as a six-bedroom HMO for six occupants. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on:
- the living conditions of existing and future occupiers with regard to adequate indoor living space and outdoor amenity space; and
 - the living conditions of the occupiers of 15 Pine Close (No 15) and 18 Enoch Stone Drive (No 18) with regard to noise and disturbance.

Reasons

Living conditions – existing and future occupiers

4. The appeal property is a large semi-detached 2.5 storey dwelling, situated close to a roundabout at the corner of Acorn Way and Derby Road, a busy arterial road. The attached dwelling is in use as a separate HMO. There is a yard to the rear of the property, and parking space for two vehicles. The proposal seeks to convert a room which is currently used as a communal lounge into a single occupancy bedroom, and convert one of the single occupancy bedrooms into a dual occupancy room. The HMO would therefore increase from six bedrooms to seven bedrooms, and from six occupants to eight occupants.
5. The Council has raised concerns that the proposal would result in an over intensive form of development, noting that the building has been extended at ground floor and within the roof space to create a dormer extension, built under permitted development rights. The Council consider that this suggests that the property is inadequate for use as a 7-bedroom HMO.
6. However, each bedroom, including the proposed new bedroom, has en-suite facilities. Five of the bedrooms have kitchenette facilities, and all have full windows with a good outlook and good levels of natural light. The bedrooms all meet the Council's required minimum size standards, and no concerns were raised by the Council's Housing Standards department. The proposed additional bedroom would be a similar size to the others at the property. Whilst not having the benefit of a kitchenette, it would have ensuite facilities, a window, natural light and would have adequate room for furniture and circulation space.
7. There would be no changes to the bedroom which is proposed to increase from single occupancy to double occupancy. The bedroom is the largest room in the property at 19m², with both ensuite and kitchenette facilities. The room would comfortably provide adequate living and circulation space for two occupiers.
8. Whilst the proposed conversion of the bedroom from a communal lounge would reduce the amount of communal space within the HMO, I saw from my site visit that there is a fairly spacious kitchen with a seating area, which would remain as a communal area for the residents. Due to the number of bedrooms which have their own kitchen facilities, I do not consider that the communal kitchen would become too cramped or would not be large enough for the residents to use and enjoy, even with an increase in the number of residents from six to

¹ 23/00496/FUL

- eight. The communal area would remain comfortably able to accommodate the communal living requirements of the residents with functional and usable space to meet their needs, without leading to an over intensification of the property.
9. The outdoor amenity space is fairly small. Whilst the space would remain the same size as a result of the proposed development, more people would be using the space, and in this sense its use would be intensified. My attention, however, has not been drawn to any specific standards relating to the provision of outdoor amenity space for HMOs in the city.
 10. The outdoor amenity space would remain functional and usable. Whilst not large, it provides an adequate space for residents to sit out, eat outside and hang washing. I do not consider that the addition of two further residents would lead to an over intensification of the outdoor space to such an extent so as to harm the living conditions of the future or existing occupants of the HMO or to render the proposed development unacceptable. Moreover, my attention has been drawn to public amenity spaces within easy walking distance of the appeal property, including Spondon Park, which offer good recreational facilities. Thus, the occupants would be served by an adequate level of public and private outdoor amenity space.
 11. I conclude that the proposal would provide an appropriate size of indoor living space and outdoor amenity space for existing and future occupants of the HMO. As such, the proposal would accord with Saved Policy GD5 of the City of Derby Local Plan Review 2006 (LPR) which seeks to ensure that developments provide a satisfactory level of amenity within the site or building itself. Furthermore, it would accord with Paragraph 135 of the National Planning Policy Framework (the Framework) which seeks to ensure that developments create places that have a high standard of amenity for existing and future users.

Living conditions – occupiers of No 15 and No 18

12. The neighbouring property at No 15 is a bungalow which is set back approximately 5m from the front of the appeal dwelling. No 18 is situated to the rear of the appeal property.
13. The proposed new bedroom would be located at the side of the appeal property which is situated closest to No 15. However, neither No 15 or No 18 are attached to the appeal property. The proposed new bedroom is already in use as a communal lounge, and its use as a single occupancy bedroom is not likely to result in an increase in noise levels. The bedroom which is to be converted from single occupancy to double occupancy is at the front of the appeal property, and an increase in its occupancy from one to two people would likewise be unlikely to result in an increase in noise levels that would impact the neighbouring properties.
14. Two extra residents would lead to an increase in activity, and there is likely to be an increase in noise and comings and goings associated with this. However, the proposed development would result in a modest increase in the occupancy of the property. The introduction of an additional bedroom and two additional occupants would not result in an overall level of activity materially different to that generated by the current occupancy. As the appeal property is an existing HMO, any differing patterns of activity associated with this use, as compared to a family home, will be an established part of the neighbourhood. The main entrance is set fronting Derby Road, facing away from neighbouring properties,

and whilst additional pedestrian movements may be perceptible to the neighbours, I do not consider that they would give rise to material noise disturbance.

15. As the appeal property is situated close to a busy arterial road and roundabout, the existing level of vehicular noise and activity at the location is likely to be generally high. Notwithstanding this, the proposal would not lead to an increase in car parking spaces, and therefore there would be no increase in the noise which may be experienced from vehicular movement at the appeal property.
16. I have not been provided with any substantial evidence to demonstrate that the proposal would exacerbate anti-social behaviour. The HMO appears well-managed, and the proposed increase in occupiers is minimal. As such, I consider that any increase in activity, and the associated noise, over and above that generated by the current level of occupancy, would not be significant.
17. I conclude that the proposal would not harm the living conditions of the occupiers of No 15 and No 18 with regard to noise and disturbance. As such, the proposal would comply with Saved Policy GD5 of the LPR which seeks to ensure that development would not cause unacceptable harm to the amenity of nearby areas with regard to noise. Furthermore, the proposal would comply with Paragraph 135 of the Framework which seeks to ensure that developments create places that have a high standard of amenity for existing users.

Other Matters

18. I recognise that the Council cannot demonstrate a five-year supply of deliverable housing sites, and with a supply of 3.17 years, the shortfall is significant. The provisions of paragraph 11(d)ii of the Framework are therefore engaged. I have, however, found the proposal to be acceptable on its own merits and the proposed development to be in accordance with the development plan, when read as a whole. Therefore, I have not considered this matter further.
19. I have had regard to the concerns expressed by interested parties that the development would exacerbate parking issues, impacting on highway safety. Two parking spaces are currently provided at the appeal site. Whilst there would be no increase in parking spaces as a result of the proposal, the Council's Highways Development Control have provided calculations which indicate that for an 8-bedroom HMO (comparable to the proposal for 8 occupiers) 2-3 vehicle spaces would be required.
20. I noted from my site visit that nearby streets are available for on-street parking, and appreciate concerns that occupiers of the HMO, their visitors and delivery drivers may choose to park in these streets, which could cause inconvenience to nearby residents. However, such inconvenience cannot necessarily be equated to material harm to highway safety of a magnitude that would warrant withholding permission.
21. Furthermore, as the appeal site is close to local facilities and a supermarket, and has access to nearby bus services, the proposal is in a sustainable location. Secure cycle parking would be provided at the property, which would mean that occupants would not need to rely on the use of a private car. I note that

there were no objections from the Highway Authority, and from my site visit and the evidence before me, I see no reason to disagree.

22. There is no specific evidence before me that the proposal would be dangerous to evacuate in an emergency, nor that there would be environmental risks in relation to waste. In common with other residential properties, there are refuse bins at the site, and household waste would be collected in line with other residential dwellings.
23. Whilst concerns have been raised regarding overlooking and loss of privacy and light, the proposal would not result in any external alterations, additions, or further windows. As such, the proposal would not lead to any increase in overlooking from the dwelling to nearby properties. Moreover, the proposal would not result in any additional extensions to the property, therefore there would not be an increase in overshadowing and the proposal would not lead to any loss of light to nearby properties.
24. Whilst I appreciate concerns regarding disruption caused by building works, any disruption would be temporary and as the proposal is not for external alterations, disruption to neighbouring properties would be minimal.
25. I recognise that the adjoining HMO is in the same ownership as the appeal property. However, I have determined this appeal on its own merits on the evidence before me. Any applications or appeals relating to No 208 would likewise be determined on their own merits and site-specific circumstances.

Conditions

26. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. For the sake of clarity, I have amended the conditions as necessary. I have not considered it necessary to impose a condition regarding external materials, as no external extensions or alterations are proposed.
27. In addition to the standard commencement condition, I have attached a condition specifying the approved plans, to provide certainty. To protect the living conditions of neighbouring occupiers and occupiers of the HMO, a condition is necessary to restrict the number of occupants to eight. I have included a condition to provide cycle storage at the property to encourage more sustainable modes of travel.

Conclusion

28. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
29. As a result, the appeal is allowed.

L C Hughes

INSPECTOR