

Appeal Decision

Site visit made on 27 August 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/M2515/W/24/3342481

10 Richmond Road, Lincoln, Lincolnshire LN1 1LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Wakmoor (Assets) Ltd against the decision of City of Lincoln Council.
 - The application Ref is 2023/0605/FUL.
 - The development proposed is change of use from 6-person HMO (Class C4) to 7-person HMO (Sui-Generis).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from 6-person HMO (Class C4) to 7-person HMO (Sui-Generis) at 10 Richmond Road, Lincoln, Lincolnshire LN1 1LQ in accordance with the terms of the application and the plans submitted with it, Ref 2023/0605/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 drawing no 187_P-02 'Proposed Plans & Elevations'.

Preliminary Matters

2. The appellant suggests planning permission may not be required for the proposal. However, it is not my role when dealing with an appeal under section 78 of the Act to determine whether the proposed use is lawful. On this basis, I have proceeded to determine the appeal on the basis of the development proposed and applied for.
3. The Council's housing team has indicated that it has approved a license to use the appeal property as a House in Multiple Occupation (HMO) for a maximum of 7 persons in 7 households. While the licensing and planning regimes are different, I nonetheless acknowledge the existence of the license as a material planning consideration as part of the assessment of this appeal.
4. The appeal property is within an area subject to an Article 4 Direction which removes permitted rights under The Town and Country Planning (General

Permitted Development) Order 2015 (GPDO) (as amended) to change the use of Class C3 Dwellinghouses to Class C4 for use of a dwellinghouse by not more than six residents as a HMO. While the proposal is for a sui generis use and the appeal proposed is not directly affected by the requirements of the Article 4 Direction, I nonetheless have had regard to it insofar as it is relevant to the matters in dispute.

5. The Council's reason for refusal states 'the proposals would cumulatively exacerbate the harmful impacts that are experienced by local residents'. The delegated report suggests that 'the harmful impacts referred to include pressure on parking in the area, an increased level of activity/comings and goings and increased refuse demand'. I have had regard to this in defining the main issues.

Main Issues

6. The main issues are the effect of the proposal on:
 - the mix of housing in the area having particular regard to the balance of the community; and
 - the living conditions of nearby occupiers with particular regard to noise and disturbance, refuse and parking in the local area.

Reasons

Mix of housing

7. Number 10 Richmond Road (No 10) is a two-storey mid-terrace building. It is currently in use as a six person HMO with rooms over three floors including a bedroom within its roof. The area is predominantly residential in character comprising a mix of accommodation types including dwellinghouses and HMOs. It was evident on my site visit that a high proportion of the buildings in the area are in use as HMOs including the neighbouring buildings to the appeal site, with students likely to be living in the area given the site's close proximity to the University of Lincoln.
8. The Council's Houses in Multiple Occupation Supplementary Planning Document (October 2019) (SPD) advises that the concentration of existing HMOs should not be over a 10% maximum within a defined 100 metre radius. The Council suggest that the percentage of HMOs in the area within which the appeal site is located is in excess of 40%. The SPD further advises that applications for the intensification of existing HMOs will not be assessed against the criteria relating to HMO concentration. As the proposal is to increase the number of occupants within an existing HMO, the proposal would not result in the loss of a dwellinghouse occupied by a single household or increase the concentration of HMOs within the area. Whilst HMOs are more likely to be occupied for shorter periods than a single family dwellinghouse, it is unlikely that one extra person living in No 10 above the existing capacity of the HMO would have a discernible impact upon the social balance or be harmful to the local community.
9. The Council and interested parties have expressed concern that the proposal could set a precedent for other, similar proposals to come forward including other dwellings maximising their permitted development rights to increase

future HMO sizes that could have cumulative impacts on the area. I have not been provided with any specific evidence such as a breakdown of population numbers or numbers of instances where this has already occurred within the local community to suggest that this is more than an anecdotal concern. I have therefore considered the appeal scheme with regard to the specific nature of the proposal before me and the site and surroundings. Furthermore, any future proposals would need to be considered on their own merits.

10. I conclude that the proposal would not result in harm to the mix of housing in the area having particular regard to the balance of the community and would not conflict with the requirements of Policies S25 (Residential Sub-divisions, Shared and Specialist Housing) and S53 (Design and Amenity) of the Central Lincolnshire Local Plan (Adopted April 2023) (LP) which seek to ensure that multi-occupation of dwellings in Lincoln would not lead to or increase an existing over-concentration of such uses in the area and would create or contribute to a variety of complementary uses that meet the needs of the community. For the same reasons, the proposal would not conflict with the guidance contained in the SPD in relation to HMO concentration.

Living conditions

11. Richmond Road is fronted by terraced houses on both sides, set back from the highway behind a footway. Each building has a small front garden and a larger private garden area to the rear. Parking is on street and is controlled by a residents parking scheme.
12. The established use of the appeal property is as a six-person HMO. The use of the secondary existing dining/lounge on the first floor as an additional bedroom for one person could potentially result in less multi occupant activity in this room. However, it could lead to increased comings and goings by the additional occupant from the appeal property as a whole, as well as from associated visitors and deliveries and the increased use of the outdoor garden areas. The increased noise and disturbance generated by one additional person would be negligible and would unlikely be discernible over and above existing levels. Whilst interested parties suggest that existing residents experience existing noise and disturbance issues, any future noise and disturbance issues would unlikely be a direct consequence of one additional person residing in No 10. In any case, excessive levels of noise and disturbance would need to be investigated, and dealt with if necessary, under the relevant powers outside of the planning system.
13. The proposal could result in a slight increase in the demand for on-street parking in an area where parking demand is already high. This has the potential to reduce convenience for road users in the local area, who may not be afforded the opportunity of parking close to their own dwelling on every occasion. However, it does not follow that this would result in unacceptable harm to their living conditions, even if they had to walk further down the road or to a nearby street to gain access to their vehicle. The Local Highways Authority raises no objection to the proposal on parking grounds and I see no reason to reach a different view in this regard, particularly given that the appeal site is located within walking distance of Lincoln City Centre.
14. In respect of increased refuse demand generated by the proposal, I saw on my site visit that there is sufficient space to store bins to the rear of No 10. I

have no substantive information before me to suggest that the necessary bin storage capacity arising from one additional person cannot be adequately accommodated for.

15. Interested parties have raised concerns in relation to increased levels of anti-social behaviour and litter. However, Lincolnshire Police have not raised any objections to the proposal and there is no objective evidence before me to suggest that the proposal would result in a discernible change with regards to these issues.
16. I conclude that the proposal would not result in harm to the living conditions of nearby occupiers with particular regard to noise and disturbance, refuse and parking in the local area in accordance with the requirements of Policies S25 and S53 of the LP which require the existing building to be capable of conversion without causing harm to the amenities of neighbours and makes adequate provision for bin storage and on-site parking unless it can be demonstrated that the site is sustainably located. For the same reasons, the proposal would not conflict with the guidance contained in the SPD which provides advice on how to manage the development of HMOs.

Other Matters

17. Interested parties have raised concerns in respect of overcrowding and insufficient dining/living room space. The Council did not identify any harm arising in respect of the standard of the proposed internal living accommodation or external amenity space. Based on the evidence, I have no reason to take a different view on these matters.
18. Whether or not the appellant would profit from the proposed development is not a matter that has been determinative in my consideration of the appeal. The management of the proposed HMO is a matter which falls outside the remit of this appeal.

Conditions

19. The Council have not suggested any conditions in the event that I am minded to allow the appeal. Standard conditions specifying the timescale for the commencement of development and the approved plans are necessary in the interests of planning certainty and clarity.
20. The Council's housing team suggest the need to secure a means of escape at ground floor level. However, this appears to relate to an existing requirement as opposed to being a direct consequence of the appeal proposal. In any event this is a matter covered by other legislation. It is not therefore considered reasonable to impose a condition in this regard.

Conclusion

21. For the reasons given above the appeal should be allowed.

H Marriott

INSPECTOR