
Appeal Decision

Site visit made on 14 August 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/C1055/W/24/3338528

26 Highfield Road, Derby DE22 1GZ

- 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 Mr Nickos Zannetou against the decision of Derby City Council.
 - The application Ref is 23/00822/FUL.
 - The development proposed is change of use of a Use Class C4 House of Multiple Occupation (for up to 6 occupants) to a HMO for up to 8 occupants (Sui Generis)
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Decision

1. The appeal is allowed and planning permission is granted for change of use of a Use Class C4 House of Multiple Occupation (for up to 6 occupants) to a HMO for up to 8 occupants (Sui Generis) at 26 Highfield Road, Derby DE22 1GZ in accordance with the terms of the application, Ref 23/00822/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in complete accordance with the following approved plans:
 - 26 Highfield Road, Derby - Site Location Plan
 - BR 22 010 - Proposed Gr 1st. Floor Plans - B. REG'S - Sheet. 1
 - BR 22 011 - Proposed 2nd Floor Plan - B. REG'S - Sheet. 2.
 - BR 22 012 A - Proposed Sections Thru - B. REG'S - Sheet. 3.
 - Planning statement
 - 3) Prior to the occupation of the new bedrooms, the details for the provision for the parking of bicycles and the storage of waste and recycling bins will have been submitted to and approved in writing by the Council. These elements shall be constructed in accordance with the approved details within 3 months of this decision. These facilities shall be retained for the lifetime of the development.

- 4) The property shall only be used as a House of Multiple Occupation by no more than 8 residents.

Applications for Costs

2. An application for costs has been made by the appellant against the Council. This matter is subject to a separate decision.

Preliminary Matters

3. The reason for refusal presented in the decision notice mentions the effect of the development upon the character of the immediate area. In my analysis of the evidence before me and the use of Policy GD5 in the decision notice, it appears that the Council's position principally relates to the effect of the scheme on the living conditions of neighbouring residents.

Main Issues

4. It follows that the main issues are:
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties; and,
 - The effect of the proposal on highway safety and the parking of vehicles.

Reasons

Living conditions of neighbouring occupiers

5. The appeal property forms one of a pair of semi-detached dwellings which are three storeys tall, with a bay window to its front elevation and traditional detailing in its street facing gable. The property is in use as a 6-bedroom House of Multiple Occupation (HMO).
6. The activity generated by 8 individuals, living independent lives, with separate routines, and their attendant comings and goings along with those of their visitors, would be noticeable to neighbouring occupiers with regard to general disturbance, noise and the noise of vehicle movements. However, the property is currently a 6-bedroom HMO and therefore the permutations of its use as an HMO are already tangible.
7. Moreover, the evidence suggests that there is a relative absence of licensed HMOs within Highfield Road. The nearest licenced HMO's are located on White Street and Kedleston Road. Whilst these properties are close geographically, I do not find that this would be at such a close distance where their proliferation, including that of the appeal site, would create an unacceptable relationship with neighbouring occupiers on Highfield Road. The effect of an additional 2 individuals beyond the existing HMO use would have a negligible perceptible effect within this context. I do not therefore find that the scheme would create an unacceptable increase in noise or general disturbance.
8. Interested parties have commented that the development would erode the family atmosphere of Highfield Road through potential drug use and litter. The fear of crime can be a material consideration. However, there must be a reasonable and evidential basis for that fear. There is no convincing evidence before me to suggest that drug taking would take place in the premises. With

regards to litter, I am satisfied that there is adequate space for refuse facilities to be secured by way of condition.

9. To conclude, I find that the development would not have an unacceptable effect upon the living conditions of neighbouring occupiers. The proposal would accord with Policy GD5 of the City of Derby Local Plan Review 2006 (LPR), which notes that planning permission will only be granted where it provides a satisfactory level of amenity within a building, where it would not cause unacceptable harm to the amenity of nearby areas.

Highway safety and the parking of vehicles

10. The appeal property does not contain provision for car parking. This is a common feature for properties located on this side of Highfield Road near to the appeal site. Moving along Highfield Road towards the junction with Duffield Road, properties on this side begin to host driveways and the demand for on-street parking therefore reduces. The opposite side of the street features properties which do contain parking. Nevertheless, during my site visit, it was noted that a number of cars were parked on Highfield Road in the immediate area surrounding the appeal site and on street parking was available. It did not appear that parking restrictions were in place at the time.
11. The 2 additional occupants would logically increase the demand for car parking. Whilst an increase in vehicles may on occasion prevent residents from parking directly by their property, this is not unusual given the absence of parking spaces within certain residential plots within the street and where there is an existing reliance for on-street parking. Residents may have to park further away than their desired location, but this would likely be further along Highfield Road. Given the overall length of the road, this would be conveniently close enough that it would not be at a detriment to highway safety or the surrounding highway network.
12. To conclude, the proposed development would meet the relevant requirements of Policy GD5 of the LPR. The provision of an additional 2 occupants would not result in an unacceptable impact on highway safety and the parking of vehicles.

Other Matters

13. Interested parties suggest that there would be an excessive number of people within the building, with limited living room and kitchen space. During my site visit, I noted that this building was particularly large, which featured large bedrooms, a large communal living area and garden space. As an HMO, occupants are unlikely to all need to use the communal facilities at once. Contributors have also suggested that this will result in the loss of a larger property. As discussed, the existing use of this building is a 6-bedroom HMO.
14. There are no external changes to the building proposed. As such, there would be no effect in relation to over massing. Interested parties have noted that the proposal would effect the setting of listed buildings, the Strutts Park Conservation Area and the Derwent Valley Mills World Heritage Site Buffer Zone. As there are no external changes proposed and given the distances involved, the intensification of the existing use of the building would not have an unacceptable effect on the significance of these heritage assets. The

Council did not find any harm in relation to the loss of privacy and in my assessment of this matter, I find no reason to disagree.

15. Turning to the matter of this HMO setting a precedent for others in the area, planning applications and appeals are judged on their own merits. Future proposals for similar uses would be subject to their own assessment.

Conditions

16. The Council did indicate which conditions it wanted to be considered in the event that the appeal was allowed. In assessment of these conditions, I have undertaken minor changes to these conditions and consulted the parties on this wording, taking their views into account.
17. In addition to the statutory time condition [1], conditions specifying the approved plans [2] are justified in the interest of certainty. A condition requiring the submission of details of the parking of bicycles and the storage of waste and recycling bins [3] is necessary in the interests of sustainable transport and the living conditions of both the future and neighbouring occupiers. I have removed the wording suggested by the Council which required the bicycle storage to be covered. There could be other acceptable methods of storing bicycles and therefore, I have removed this element from the suggested wording. A condition limiting the occupancy level of the property to 8 residents [4] is necessary in protecting the interests of the living conditions of neighbouring occupiers, and those of the proposed development in ensuring that a satisfactory living environment is achieved.
18. The Council has suggested a condition which requires the development to conform in all aspects with the approved plans and details of the application. This has not been included in this decision as accordance with the approved plans would be controlled by condition 2.

Conclusion

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

J Smith

INSPECTOR