



Appeal Decision

Site visit made on 17 September 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2024

Appeal Ref: APP/V2004/W/24/3341391

337-341 Beverley Road, Kingston Upon Hull, HU5 1LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Jason Kay against the decision of Kingston-Upon-Hull City Council.
 - The application Ref is 23/03425/FULL.
 - The development proposed is change of use from offices to 32 bed HMO sui generis.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the above banner heading has been taken from the original application form. The decision notice does however include alterations to doors and windows, and I have determined the appeal accordingly.
3. It is clear from the officers' report and Councils' statement of case that a legal agreement under Section 106 of the Town and Country Planning Act 1990 is required to secure planning obligations in relation to the proposed development which is discussed further below. While matters relating to financial contributions has not been cited as a reason for refusal on the decision notice, a legal agreement is absent from the appeal and thus I have covered this matter as a main issue. Both parties have also had the opportunity to comment on this element of the appeal and my inclusion of this as a main issue is not therefore considered prejudicial to the parties.

Main Issues

4. The main issues of the appeal are:
 - Whether the proposed development would provide a financial contribution in relation to open space;
 - The effect of the proposed development on parking in the area; and
 - The effect of the proposed development on local amenity and the character of the area.

Reasons

Financial contribution

5. The appeal site relates to a three-storey office building located to the west side of Beverly Road with a car park to the rear which is accessed via Lambert Street to the north. The proposed development seeks planning consent for change of use from offices to a 32 bed House in Multiple Occupation (HMO) including alterations to doors and windows.
6. Policy 42 of the Hull Local Plan, 2017 (HLP) explains that housing windfall sites may require on-site open space to make them acceptable in planning terms, where there is or will be a deficit of open space and it is practicable to do so. Where there is a deficiency that cannot be fully met on site, a legal agreement under Section 106 of the Town and Country Planning Act 1990 seeking a financial contribution equal to the cost of the provision will normally be required. The contribution would be used to enhance existing or provide new open space and play provision in the vicinity.
7. It remains undisputed that contributions for open space are required in the particular circumstances of this case and whilst the appellant has confirmed that they would have no issues entering into a legal agreement to secure contributions for open space, such an agreement is absent from the appeal and thus there is no mechanism in place to secure such contributions.
8. For the above reasons, the proposed development would not provide a financial contribution in relation to open space. It would therefore be contrary to Policy 42 of the HLP.

Parking

9. The proposed development would require 31 car parking spaces and 1 x cycle space for each unit which is undercover and lockable to comply with the Councils' parking standards as set out under Policy 32 of the HLP.
10. The layout plan proposes 13 x vehicle parking spaces, 4 x motorcycle spaces and 20 x secure cycle spaces to the rear of the property which is a significant shortfall against the requirements. That said, Policy 32 does explain that the standards will be applied flexibly to take account of a number of varying matters including: accessibility, type of development, opportunities for public transport and local car ownership levels.
11. According to statistics, a high percentage of households in the area have no access to vans or cars. Considering the type of development, car ownership levels are also likely to be lower in HMO's than in self-contained dwellings. The site is in a highly sustainable location within the Beverly Road Local Centre with access to local shops and bus services as well as being adjacent to a main cycle route. This ultimately reduces the need for car use and further mitigates the need for vehicle parking. I am aware of the claims made regarding parking issues in the area and lack of on street parking. Even so, I am content that on the basis of the above, the proposed development would not place unreasonable demand on the supply of on street parking in the area to the detriment of residential amenity.
12. In the particular circumstances of this case, the parking standards can be applied flexibly, taking into account the individual characteristics of the development and its location. I therefore conclude on this issue that the proposed development would not have an unreasonable impact upon the demand for on-street parking. It would therefore comply with Policies 7(2)(c)

and 32 of the HLP which together, amongst other matters, requires such proposals to not create unacceptable parking problems to the detriment of local amenity.

Local amenity and character

13. HMOs are prevalent in parts of Hull and although they are an important part of the housing supply, I acknowledge that a concentration of HMOs can have a negative effect on the amenity of neighbourhoods and undermine the creation of mixed and balanced communities unless properly managed. In particular, a proliferation of refuse and recycling bins, limited parking, and a potential for excessive noise and disturbance can have an adverse impact on an area and its residents.
14. The site is within an Article 4 Direction area whereby limits have been placed on the number of HMOs allowed in the area. Policy 7 of the HLP relates to HMOs explaining at 7 (2)(a) that the conversion of a property into a HMO will not be allowed if it would amongst other matters, result in the concentration of similar uses adversely affecting local amenity and the character of the area. Additionally, 7 (4) explains that where an Article 4 Direction exists for small HMOs, and if the concentration of uses of HMOs and flats exceeds 50% in a specific street, then further HMOs will not be allowed. This provides a numerical gauge to measure the potential for over proliferation in this case.
15. Beverly Road is a busy and lengthy arterial road which makes applying Policy 7 of the HLP difficult in relation to determining the concentration of similar uses and measuring over proliferation. It would therefore be a logical approach for the calculation to be made on a specific section of Beverly Road. The physical boundaries being the overhead railway bridge to the south and the junction with Cottingham Road and Clough Road to the north.
16. Taking into account all residential units on this section of Beverley Road including residential uses above shops, approving this appeal would bring the total number of properties in use as flats or HMOs as a result of conversions to 30.2%, which is significantly below the permitted threshold of 50% in Policy 7.
17. I am mindful that statistics can be applied and interpreted differently from the information available. However, based on the evidence before me, I have no compelling reason to discount residential flats above shops from the calculations. This is because Policy 7 refers to conversion into a HMO and flats above shops do not constitute conversions as they would not usually have involved a unit being converted from its original use. These properties commonly comprise a single address of mixed uses with residential units above commercial premises.
18. Moreover, the figures are not fully representative of the situation taking into account the length of this section of the street which covers a good distance as well as the commercial nature of the street and distances between many of the similar HMO uses which are punctuated by commercial premises. The appeal site is an end of terrace, located within a terrace of 5 existing 3 storey premises in use as flats above shops and a C2 residential institution. The proposed development would not therefore lead to family dwellings being 'sandwiched' by HMOs on both sides which has the potential to be detrimental.

19. Supported housing nearby such as the drug and alcohol rehabilitation centre and sheltered housing complex do not comprise a HMO use or a flat but are indeed a C2 use in planning terms and thus is considered a separate use in context of Policy 7 of the HLP. I am aware of the concerns regarding the future use of other premises in the area although any future uses would be subject to their own assessment and thus such matters would not alter my findings on the appeal I am considering.
20. On this basis, I am sufficiently satisfied that there would not be a concentration of similar uses that would adversely affect local amenity and the character of the area nor lead to those issues as identified earlier occurring. The proposed development would therefore comply with Policy 7(2)(a) of the HLP which relates to HMOs.

Other Matters

21. The site is within the Beverley Road Conservation Area. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I have had regard to paragraph 205 of the National Planning Policy Framework (the Framework) which explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
22. There are no significant alterations proposed to the external appearance of the building and, the Council has concluded that subject to conditions, the design of the proposal is considered acceptable. Based on the plans provided and my own observations onsite, I have no reason to disagree with this assessment.

Conclusion

23. Although I have found a lack of harm in relation to parking and local amenity and the character of the area, there is no mechanism in place to secure the financial contribution relating to open space. It follows that the proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which would outweigh this conflict.
24. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR