



Appeal Decision

Site visit made on 29 October 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/C1055/W/24/3347844

5 Babington Lane, Derby DE1 1SU

- 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. Sam Berry, of The Berry Group, against the decision of Derby City Council.
 - The application Ref is 23/01496/FUL.
 - The development proposed is nine bedroom house in multiple occupation to a ten bedroom house in multiple occupation.
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Decision

1. The appeal is allowed and planning permission is granted for a nine bedroom house in multiple occupation to a ten bedroom house in multiple occupation at 5 Babington Lane, Derby DE1 1SU in accordance with the terms of the application, Ref 23/01496/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. I observed during my site visit that the conversion works were completed and the building was occupied as a ten bedroom House in Multiple Occupation. I have determined the appeal on this basis.

Main Issue

3. The main issue raised by this appeal is whether or not the accommodation provides satisfactory living conditions for the occupiers, with particular regard to the provision of internal living space and outlook.

Reasons

4. The appeal site is a large two storey mixed use building located within Derby City Centre. The first floor of the building is occupied as a House in Multiple Occupation (HMO), with ten bedrooms. The bedrooms each have an en-suite bathroom and a small kitchenette. There are two shared communal areas, also with kitchen facilities.
5. The main parties have drawn my attention to a previous planning permission (previous permission) on the site, reference 23/00203/FUL, for a 'change of use of first floor from retail (Use Class E) to a 9 bedroom house in multiple occupation (Sui Generis) including installation of a dormer, roof top privacy fence and alterations to windows and doors'. A copy of the approved plans for the previous permission have been provided and show a large communal

kitchen / dining area / lounge area (main communal room) towards the front of the building, overlooking the street.

6. The main communal room has been sub-divided as part of the appeal scheme to provide an additional bedroom and a smaller main communal room. The additional bedroom benefits from a window that overlooks the street, as does the window to bedroom two.
7. The windows to bedrooms three to ten continue to have an outlook over an alleyway at the side of the building, towards the side wall of the neighbouring building. Within the context of the city centre location there is a reasonable separation distance between the windows of bedrooms three to ten and the side wall of the adjacent building. As a result, the outlook from the windows is not oppressive.
8. Two communal areas are still available for the occupiers. In particular, the revised main communal room has large windows that have a pleasant outlook over the street. Whilst the room is smaller than the previous permission, it is large enough for items of furniture and there is opportunity for a number of occupiers to socialise together, away from their private rooms. Therefore, it continues to provide additional living space for the occupiers of the building, particularly those of bedrooms three to ten.
9. Furthermore, even though the smallest of the two communal areas, located towards the rear of the building, is not served by a window, it does offer occupiers with additional kitchen space. The space is large enough for a number of the occupiers to stand, cook and have conversations. Also, I am mindful that both communal areas could be adapted to provide additional seating if the need arises.
10. Additionally, the location of the building within the city centre and its proximity to cafes, bars, restaurants, and other leisure uses, also provides an abundance of opportunities for occupiers to socialise with one another outside of their private rooms.
11. Overall, the accommodation is completed to a high standard and the level and quality of communal space within the building, as well as bedroom sizes and the outlook from windows, achieves a high-quality living environment for the occupiers of the HMO.
12. Consequently, for the above reasons, I conclude that the accommodation provides satisfactory living conditions for the occupiers of the property, with regard to the provision of internal living space and outlook. As such, the proposed development would not conflict with Policies GD5 and H13 of the City of Derby Local Plan Review 2006, which amongst other matters, expects development to be well-designed and create a high-quality living environment for existing and future users.

Other Matters

13. The appeal site is located adjacent to the Green Lane Conservation Area and Locally Listed Buildings. However, as no external alterations are proposed, and having regard to the existing use of the building, I consider the significance of no heritage assets in the area would be harmed.

Conditions

14. The Council has suggested several conditions, some of which I have amended for the sake of clarity and precision, as well as to reflect that the development is occupied. I have also had regard to the National Planning Policy Framework and the Planning Practice Guidance. A time limit condition is not necessary as the development has commenced. For similar reasons, a condition stating the approved drawings is not necessary.
15. I have imposed a condition requiring the provision of parking and storage arrangements for bicycles, to ensure that provision is made to encourage the use of sustainable modes of travel. Since the development has already been implemented, I have required this to be provided within three months of the date of this decision. The condition also includes a requirement to provide details of bin storage arrangements for the HMO. This is also necessary to ensure that suitable refuse and recycling arrangements are available to the residents.
16. In the context of the City Centre location, an assessment of noise levels within the building, to protect the living conditions of the occupiers, is reasonable and necessary. To reflect that the development is occupied I have required this to be provided within three months of the date of this decision. Any identified mitigation, and a timetable for implementation is also necessary.
17. The Council has suggested a condition which seeks to secure the submission and approval of facing materials, as well as landscaping, for a roof garden and dormer. However, external changes to the building, including the roof garden and dormer, is not included in the development description. The Council's delegated officer report also confirms that no changes to the building's exterior are proposed and there are no significant implications for visual amenity. Therefore, a condition to secure these details is not reasonable or necessary in the context of the appeal scheme.

Conclusion

18. The development accords with the development plan, and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

INSPECTOR

Schedule of Conditions

- 1) Unless within three months of the date of this decision a scheme for cycle storage and waste/recycling bins storage provision within the site, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three months of the local planning authority's approval, the occupation of the building shall cease until such time as a scheme is approved and implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained as such at all times in the future.

- 2) Within three months of the date of this decision an assessment of noise levels within the building shall be submitted in writing to the local planning authority for approval. The assessment shall include details of not just existing measures now in place to reduce noise within the building, but also, if necessary, any required mitigation and a timetable for its implementation.

Once approved in writing by the local planning authority, any necessary mitigation shall be implemented in accordance with the approved timetable and, along with any measures to address noise already in place, shall be thereafter retained.

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