



Appeal Decision

Site visit made on 3 June 2025

by Andreea Spataru BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2025

Appeal Ref: APP/C1055/W/25/3362713

25 Crown Street, Derby DE22 3UR

- 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 Cihan Gursoy (MG Partners Investments Ltd) against the decision of Derby City Council.
 - The application Ref is 25/00085/FUL.
 - The development proposed was originally described as “Change of use from C3 dwellinghouse to C4 small (6-bed) HMO”.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The submitted evidence indicates that the initial description was amended before the validation stage. The appellant asserts that it was intended for the proposal to be for 6 bedrooms occupied by 6 people, rather than 7. Nevertheless, the appellant’s submitted evidence shows that confirmation has been given by the appellant that the application was for a 6-bedroom (7 occupants) house in multiple occupation. Therefore, I have considered the proposal on this basis.

Main Issue

3. The main issue is whether the proposal would provide acceptable living conditions for the future occupants with regard to outlook, day light and privacy.

Reasons

4. The appeal site relates to a mid-terrace dwelling located within a predominantly residential area. The property would have a kitchen/dining room at the ground floor, which would be the only internal communal area for the occupants. This room would have a door, leading to the patio area and rear garden, and no windows. Due to the lack of windows, there would be insufficient daylight and inadequate outlook for the internal communal area, which would be detrimental to the living conditions of the future occupiers.
5. The ground floor would also accommodate room No 2, which would be served by one window. The window would be next to the corner of the room, would overlook the access path, the proposed cycle store, and would be in close proximity to the boundary shared with the adjoining neighbouring property. Due to the placement of the only window, room No 2 would have inadequate outlook and limited daylight. The privacy of the occupants would also be affected, as the window is next to the access pathway that would be used by the other residents on a usual basis.

Therefore, the proposal would be harmful to the living conditions of the future occupant of room No 2.

6. The window serving the ensuite for room No 4 extends slightly into the ensuite which would serve room No 5. It is not clear how such window would function and whether the privacy of the occupiers of rooms Nos 4 and 5 would be protected. In the absence of substantive evidence to show how privacy would be adequately protected, the proposal would harm the living conditions of the future occupiers of rooms Nos 4 and 5.
7. The appellant stated that they would have addressed the concerns regarding natural light, however no suggestions have been provided. I have therefore considered the proposal based on the submitted plans.
8. In conclusion, the proposal would be harmful to the living conditions of the future occupiers, with particular regard to outlook, daylight, and privacy. As such, it is contrary to the aims of saved Policy H13 of the City of Derby Local Plan Review, which requires, amongst other things, that developments provide a high-quality living environment and good standards of privacy. The proposal is also contrary to the aims of the National Planning Policy Framework (the Framework), which at paragraph 135, requires developments to achieve a high standard of amenity for existing and future users.

Other Matters

9. The appellant indicates that the proposal would have fallen under permitted development rights as given in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 if the scheme would have been assessed as 6 bedrooms for 6 occupants and would have been implemented before the introduction of Article 4 Direction. I acknowledge the appellant's concerns over the Council's handling of the application and the implications regarding permitted development rights. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings above, in which I have had regard solely to the planning merits of the proposal.
10. I acknowledge the intention to provide quality accommodation, and I have no reason to doubt the appellant's experience in successfully managing such properties. However, that does not address, nor outweigh, the harm identified above to the living conditions of the future occupiers.

Planning Balance

11. The latest information is that the Council is able to demonstrate a housing land supply of only 3.36 years. This is well below Government expectations. Therefore, due to the housing land supply position, paragraph 11 d) of the Framework is engaged.
12. The proposal would not increase the Council's housing stock, although it would create several small units of accommodation suitable for 1 or 2 people. Therefore, the adverse impacts of the proposal with regard to the living conditions of the future occupiers would significantly and demonstrably outweigh any modest benefits from delivering a single HMO. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

13. The proposal conflicts with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal is dismissed.

Andreea Spataru

INSPECTOR