



Appeal Decision

Site visit made on 24 April 2024

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2024

Appeal Ref: APP/A2525/W/23/3327301

5 Stonegate, Spalding, Lincolnshire PE11 2PQ

- 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 Dale Bowden against the decision of South Holland District Council.
 - The application Ref is H16-0042-23.
 - The development proposed was originally described as 'change of use of a residential property (C3) to a HMO (C4 or Sui Generis)'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to a larger House in Multiple Occupation for up to 9 residents at 5 Stonegate, Spalding, Lincolnshire PE11 2PQ in accordance with the terms of the application, Ref H16-0042-23, subject to the following conditions:
 - (1) The development must be begun not later than the expiration of three years beginning with the date of this permission.
 - (2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1:1250 Site Location Plan dated 15/07/2022
 - ST/14/A - Proposed Site Plan
 - ST/15/A - Proposed Ground Floor Plan
 - ST/16/B - Proposed First Floor Plan
 - ST/17/A - Proposed Elevations
 - (3) The use hereby permitted shall be solely for a House of Multiple Occupation and shall not exceed seven bedrooms and nine occupants.
 - (4) Prior to the development hereby permitted first being brought into use, full details of the cycle store facilities indicated on drawing No ST/14/A shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing, the cycle store shall be provided in accordance with the approved details prior to the development hereby approved first coming into use and shall be retained thereafter for the parking of bicycles.

- (5) Prior to the development hereby permitted first being brought into use, precise details of the bin storage facilities indicated on drawing No ST/14/A shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing, the bin storage shall be provided in accordance with the approved details prior to the development hereby approved first coming into use and shall be retained thereafter for the storage of bins.

Applications for costs

2. An application for costs was made by Mr D Bowden against South Holland District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of the proposal in my banner heading is taken from the application form, albeit, I have removed the text 're- submission of H16-0737-22', as that is not a description of development.
4. Notwithstanding the above, a change of use from a dwellinghouse (Class C3) to a house in multiple occupation (HMO) for up to 6 residents, is permitted development under Schedule 2, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015. Moreover, there is no dispute that such a change of use has already taken place at the site. It is clear from the supporting documents that the appellant sought permission for a change of use to a larger HMO for up to 9 residents and that the Council determined the application on that basis. My decision is also made on this basis.
5. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments.

Main Issues

6. The main issues are:
 - (i) whether suitable living conditions would be provided for occupiers of the proposal;
 - (ii) the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and
 - (iii) whether the proposal would give rise to highway safety issues and/or inconvenience for road users and pedestrians in the area.

Reasons

Living conditions for occupiers of the proposal

7. The plans indicate that the HMO would have two bathrooms, a total of three toilets, a spacious living room and a kitchen capable of accommodating two sets of hobs, two sinks and two fridges. The property also has a substantial

private outdoor area to the rear of the building. This would provide ample space for example to sit out, for bicycle storage and to hang out washing. The Council has not provided any detailed evidence to explain why the property's internal configuration and its external environment would not provide a high standard of amenity for up to 9 residents.

8. Furthermore, there is no dispute between the main parties that the individual bedrooms would accord with the 'Technical housing standards - nationally described space standard'. In addition, the appellant asserts that the proposal would also meet the requirements of The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018 and this has not been contested by the Council. These factors further indicate that the proposal would provide for acceptable living conditions.
9. I conclude, suitable living conditions would be provided for occupiers of the proposal. In that regard it would comply with the requirements for an adequate standard of residential accommodation and residential amenity to be provided for future occupiers and to meet nationally described space standards in Policies 2 (Development Management), 3 (Design of New Development) and 21 (Houses in Multiple Occupation and the Sub-Division of Dwellings) of the South East Lincolnshire Local Plan (2019) (LP). For the reasons given, the proposal would also meet the requirements of Paragraph 135 of the Framework which requires that developments create places with a high standard of amenity for future users.

Living conditions of neighbouring occupiers

10. The Council does not dispute that the building has an established use as a HMO for up to 6 individual occupants. There is no driveway serving the property and the entrance door would be to the front elevation, set away from neighbouring boundaries. In these respects, it is unlikely that increased comings and goings associated with up to 3 additional occupiers over the existing situation would be highly discernible to neighbouring occupiers.
11. Furthermore, the building is detached and so there are no adjoining walls with neighbouring dwellings. There is no objective evidence before me to suggest that the usual day-to-day activities of occupiers of a HMO would be particularly noisy or would be of a nature likely to disturb neighbouring occupiers, even if neighbouring properties are mainly occupied by single families.
12. There is anecdotal evidence suggesting that noise arises from parties at the appeal property. However, this does not mean that parties would be a direct consequence of the proposal. In any case, excessive levels of noise and disturbance arising from parties would need to be investigated, and dealt with if necessary, under the relevant powers outside of the planning system.
13. I conclude, the proposal would have an acceptable effect on the living conditions of neighbouring occupiers with particular regard to noise and disturbance. In that regard it would comply with the requirements to not significantly harm the amenities of the occupiers of adjoining or neighbouring properties including by way of noise and general disturbance in Policies 2, 3 and 21 of the LP. For the reasons given, the proposal would also meet the requirements of Paragraph 135 of the Framework which requires that developments create places with a high standard of amenity for existing and future users.

Highway safety and/or inconvenience for road users and pedestrians

14. Paragraph 115 of the Framework confirms that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
15. The section of Stonegate where the appeal site is located has a prevailing residential character. Spalding High School is also located close by and there are bus stops next to the appeal site. The residential properties in the area often have off-street parking. However, the appeal site and the neighbouring property at No 6 have no dedicated parking facilities. On my site visit, I observed that Stonegate is a wide road which means that parking can occur on street without impeding the through flow of traffic. While only a snapshot of the parking conditions in the area, there was ample space to park on the road in close proximity to the site at the time of my visit.
16. The evidence before me indicates that the appellant's parking survey was undertaken over three consecutive weekday evenings between the hours of 1900 and 2100. It is reasonable to expect that many local residents would have been at home at this time in the evening. The survey indicates that within a radius of 300 – 500 metres, there was significant capacity to park on street. No contrary survey information is before me to suggest that this is not an accurate depiction of the general parking conditions in the area. From my own observations, the dimensions and alignment of local roads also provide for acceptable vehicular movements and visibility for drivers. There is no detailed evidence before me to suggest otherwise.
17. There is anecdotal evidence before me in respect of parking and traffic problems in the area, including but not limited to school drop off and pick up times. However, any increases in on-street parking demand resulting from an increase in the capacity of the HMO by 3 residents, including from any visitors thereto, would likely be limited. Bearing in mind my observations in terms of the capacity of local roads for parking and movements, the proposal would be unlikely to have a tangible effect on parking or traffic conditions in the area even at the busiest times of the day.
18. In addition, the site is located close to bus stops and Spalding town centre. Therefore, services and facilities are within easy reach. The plans indicate that a cycle store for 9 bicycles would be provided and this could be secured by condition. Consequently, sustainable travel options such as walking, cycling and public transport would be available to occupiers of the HMO and this has the potential to reduce reliance on private vehicles. For these reasons, the Highway Authority also confirmed that off-street parking is not essential for the proposal and raised no highway safety concerns.
19. I conclude, the proposal would not have an unacceptable effect on highway safety and no significant inconvenience would arise for road users and pedestrians in the area. In that regard, it would comply with the parking, highway safety and access requirements in Policies 2, 3 and 21 of the LP. For the same reasons, the proposal would also comply with the highway safety requirements of the Framework.

Other Matters

20. Concerns have been raised by third-parties in respect of the maintenance of external areas and the amount of household waste that would be generated by the proposal. Planning permission would not prevent the owner or residents of the HMO from maintaining the external areas. The plans show a dedicated space for general and recycling waste bin storage. There is nothing before me to suggest this would not be capable of accommodating the necessary bin storage capacity for the proposed HMO. Precise details of this could be secured by condition. Therefore, adequate provision for the storage of waste would be made in line with the requirements of Policy 21 of the LP.

Conditions

21. I have given regard to the Council's suggested conditions. I attach the usual timescale for implementation and a condition confirming the approved drawings in the interests of certainty. I have removed a reference to the application forms amongst the approved details as the description of the development approved is included within my decision. I have also removed reference to the design and access statement and parking survey from the list of approved documents as they do not specify details that should be accorded with.
22. I have included the condition specifying the maximum number of bedrooms and occupants to ensure the building is only occupied in line with the envisaged levels of occupation applied for. Once implemented, an alternative use would require planning permission and therefore I have removed the surplus text referring to this in the interests of clarity and conciseness.
23. I have altered the wording of the Council's suggested conditions requiring details of cycle racks and bin storage to reference the details shown on the approved drawings. These conditions are reasonable and necessary in the interests of promoting sustainable modes of transport and to ensure that the site is adequately served by refuse storage facilities.

Conclusion

24. For the reasons set out, the appeal is allowed.

M Russell

INSPECTOR