

Report to Planning applications committee

Item

13 July 2017

Report of Head of planning services

Subject Enforcement Case ref. 17/00112/ENF – 2B Lower Goat Lane, Norwich, NR2 1EL

4(g)

SUMMARY

Description: The conversion of a former A1 unit to a C4 House of Multiple Occupation in breach of condition 2 (approved plans) of planning permission reference 16/00695/U.

Reason for consideration at Committee: Enforcement Action recommended.

Recommendation: Authorise enforcement action up to and including prosecution in order to secure the cessation of the unlawful use as a C4 HMO as built and ensure the building is returned to its previous lawful use or the permission as a C4 HMO under planning permission reference 16/00695/U is implemented.

Ward: Mancroft

Contact Officer: Robert Webb robertwebb@norwich.gov.uk

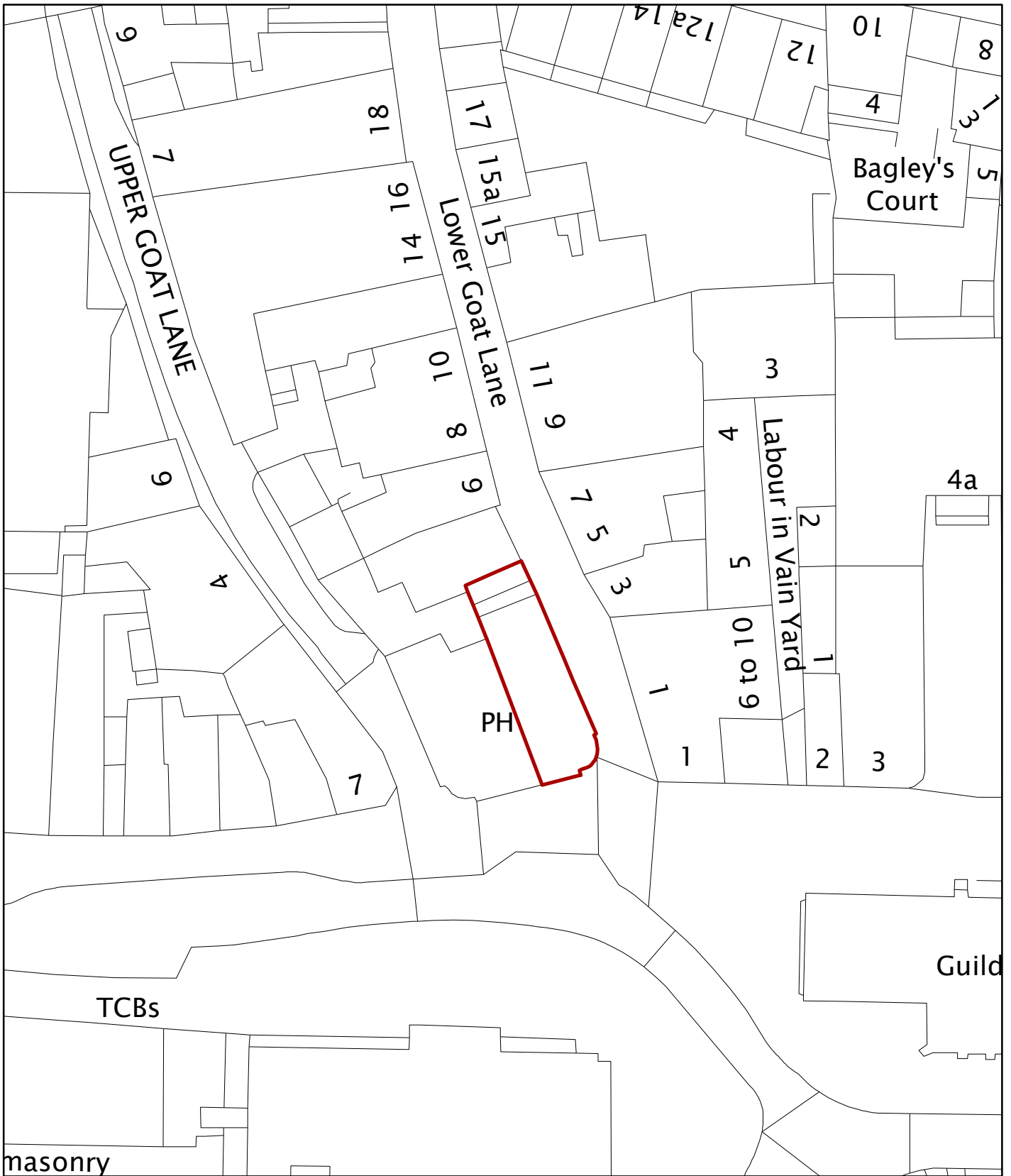
INTRODUCTION

The Site

1. The site is the second floor of a building on the corner of Lower Goat Lane and St. Giles Street. There is a restaurant (Paulo's Restaurant) and coffee shop on the ground floor and a tattoo parlour on the first floor of the building. The previous lawful use of the second floor is understood to be for retail (A1) purposes.

Relevant planning history

2. 16/00695/U - Change of use of second floor from retail (Class A1) to house in multiple occupation (Class C4). Permission granted 22.6.16.
3. 16/01199/F - Amendment to previous permission 16/00695/U to add 1no. bedroom to HMO. Permission refused 7.10.16. Appeal dismissed 26.4.17



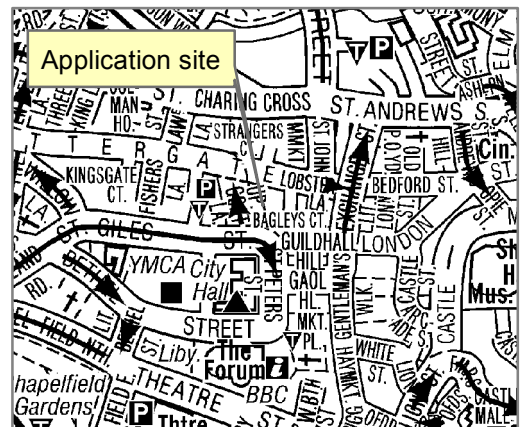
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Planning Application No 17/00112/ENF
 Site Address 2 Lower Goat Lane

Scale 1:500



NORWICH
 City Council
 PLANNING SERVICES



The Breach

4. The conversion of a former A1 unit to a C4 House of Multiple Occupation in breach of condition 2 (approved plans) of planning permission reference 16/00695/U.

5. **Policies and Planning Assessment**

National Planning Policy Framework:

- Chapter 6 A wide choice of good quality homes
- Chapter 7 Requiring good design

Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS):

- JCS2 Promoting good design
- JCS4 Housing
- JCS6 Access and transportation

Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan):

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM12 Principles for all residential development
- DM13 Communal development and multiple occupation
- DM28 Encouraging sustainable travel
- DM30 Access and highway safety
- DM31 Car parking and servicing

Justification for Enforcement

6. Planning permission was originally granted for application reference 16/00695/U for the change of use from A1 to C4 HMO. The floor layout and all of the other aspects of the proposal were considered to be acceptable. However the applicant chose to carry out development in a different way, adding an additional bedroom and reducing the size of the shared communal areas. An application was made seeking to regularise the matter.
7. Planning permission was refused for the second application, reference 16/01199/F, for the following reason:

“The proposed development would provide a substandard level of amenity for future occupiers due to the cramped size of the shared living areas, in particular the size of the kitchen and living room which are unsatisfactory given the proposed occupation by up to 6 persons. The proposal therefore conflicts with policy DM2 of the Norwich Development Management Policies Document and paragraph 17 of the National Planning Policy Framework which requires new developments to provide a high standard of amenity for future occupiers.”

8. This decision was appealed by the applicant and the Planning Inspectorate dismissed the appeal on 26th April 2017 citing the following reason:

“I find the development provides an inadequate amount of usable internal space for sitting and eating. Thus, it results in a cramped and uncomfortable internal living space which is harmful to the living conditions of its occupants.

In reaching these conclusions I acknowledge that the appeal development provides residential accommodation meeting housing needs in a city centre location where services and facilities can be easily accessed. However, these matters or any others raised do not outweigh the harm I have identified.”

A copy of the Inspector’s report is appended to this report for reference. The development has been implemented in accordance with the refused plans.

Enforcement action is therefore sought to require the applicant to either carry out alterations to ensure the HMO is laid out in accordance with the permission granted under application reference 16/00695/U, or to return the property to its condition before the works were carried out.

Equality and Diversity Issues

9. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant:

(a) Article 1 of the First Protocol (the peaceful enjoyment of one’s possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the removal of the unauthorised building works in the interests of amenity is proportionate to the breach in question.

(b) Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the committee as necessary. This could be in person, through a representative or in writing.

Recommendation

10. Authorise enforcement action to require the applicant to either carry out alterations to ensure the HMO is laid out in accordance with the permission granted under application reference 16/00695/U, or to return the property to its condition before the works were carried out, including the taking of direct action may result in referring the matter for prosecution if necessary.

Appeal Decision

Site visit made on 11 April 2017

by **L Fleming BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26th April 2017

Appeal Ref: APP/G2625/W/16/3165686
2B Lower Goat Lane, Norwich NR2 1EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Dritan Duraj against the decision of Norwich City Council.
 - The application Ref 16/01199/F, dated 12 August 2016, was refused by notice dated 7 October 2016.
 - The development is Minor Amendment to Planning Approval No: 16/00695/U (Change of Use of Second Floor from Retail (Class A1) to House in Multiple Occupation (Class C4) which relates to addition of 1no Bedroom to the HMO formed by Change of Use already approved.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit the development had already been carried out. I have considered the appeal accordingly.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers with particular regard to internal living space.

Reasons

4. It has been put to me that to convert the appeal property to a four bed house in multiple occupation (HMO) would constitute a minor amendment to an extant planning permission¹. I am also told that a planning condition was not imposed on that permission restricting the number of rooms or the number of occupants. Thus, it is argued that planning permission is not required for the appeal development.
5. However, it is open to the appellant to apply for a determination of such matters under section 191 or 192 of the Town and Country Planning Act (1990) and it is not my place, to determine such matters in determining an appeal under section 78 of the Act. I will therefore assess the appeal on the basis of the development applied for.

¹ Council Reference 16/00695/U

6. Policy DM2 of the Norwich Development Management Policies Local Plan (2014) (DMPLP) states that development will only be permitted where it provides a high standard of amenity. Furthermore, it states that to ensure that residential dwellings are designed to meet the demands of everyday life adequate internal space must be provided and would normally be expected to exceed the City Council's indicative minimum guidelines for internal space standards.
7. However, the Written Ministerial Statement of 25 March 2015 confirmed that local standards for living accommodation should no longer be applied. Instead they may be replaced by a new national space standard² when new local policies are set. I am not aware of any such local policies and thus I attach limited weight to any conflict there may be with the Council's indicative minimum standards or the national space standard.
8. Nevertheless, I have considered the appellant's assessment of the internal floor space against the national space standard. However, the numerical area of any internal floor space is only one factor in determining the acceptability of any living accommodation.
9. The occupants of four bedrooms all share a kitchen and separate lounge/dining room. The kitchen is small with no room for sitting or eating. The lounge/dining area is also a small narrow space with a sloping ceiling along the majority of the length of the room. It could not comfortably accommodate any lounge seating and a dining table together. If such was in place there would be insufficient space to move around the room. Moreover, when any furniture is in place there would be few opportunities to comfortably position a television.
10. I acknowledge the comments with regard to innovative interior design and space saving furniture. However, there is no substantive evidence before me to demonstrate that such measures could overcome the limitations of the internal space I have identified.
11. That said, even if I accept that each bedroom is occupied by one person, I find the development provides an inadequate amount of usable internal space for sitting and eating. Thus, it results in a cramped and uncomfortable internal living space which is harmful to the living conditions of its occupants.
12. In reaching these conclusions I acknowledge that the appeal development provides residential accommodation meeting housing needs in a city centre location where services and facilities can be easily accessed. However, these matters or any others raised do not outweigh the harm I have identified.
13. For the reasons set out above, the development is in conflict with Policy DM2 of the DMPLP and the National Planning Policy Framework which taken together aim to ensure good design and that new development does not result in harmful living conditions.

Other Matters

14. The appeal development is within the City Centre Conservation Area (CA) and surrounded by a number of listed buildings. However, the development has not involved any significant alterations to the appearance of the appeal

² Technical housing standards- national described space standard, DCLG March 2015

building and thus I find the character and appearance of the CA and settings of the listed buildings are preserved.

15. I have also noted that the appellant is dissatisfied with Council's handling of the planning application, particularly in publishing documents on its website and overall engagement. However, I have determined the appeal on its planning merits.

Conclusion

16. I conclude that on balance the development is in conflict with the development plan and thus having had regard to all other matters raised the appeal is dismissed.

L Fleming

INSPECTOR