
Appeal Decision

Site visit made on 3 January 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/D1590/W/16/3155827

49 Milton Road, Westcliff on Sea, Essex SS0 7JP

- 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 LT Properties (Mr Toby Marsden) against the decision of Southend-on-Sea Borough Council.
 - The application Ref 16/00184/FUL, dated 5 February 2016, was refused by notice dated 23 June 2016.
 - The development proposed is described as '(C4) HMO'.
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Decision

1. The appeal is allowed and planning permission is granted for a (C4) HMO use at 49 Milton Road, Westcliff on Sea, Essex SS0 7JP in accordance with the terms of the application, Ref 16/00184/FUL, dated 5 February 2016, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by LT Properties (Mr Toby Marsden) against Southend-on-Sea Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The application form describes the proposal as '(C4) HMO'. The Use Classes Order 1987 as amended defines Class C4 as use of a dwellinghouse by not more than six residents as a 'house in multiple occupation' (HMO). However, the proposal would allow the appeal property to be used by more than six persons. Moreover, the appeal form and the appellant's statement adopt the Council's description of the development as a 'house in multiple occupation' without reference to Use Class C4. Therefore, notwithstanding the description used above, I have determined the appeal on the basis that the proposal is for a sui generis HMO use.

Main Issues

4. The main issues are the effects of the proposed:
 - parking arrangements on highway safety and convenience;
 - change of use on the character of the area.
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Reasons

5. Prior approval has been granted for buildings, including the appeal property, to be converted from Class B8 use to three Class C3 dwellinghouses (application ref 15/01395/PA3COU). The appellant has subsequently used Class L of the General Permitted Development Order¹ to change the use of the property to Class C4. Whilst the Council's statement questions whether the Class C3 use was implemented, the appellant's evidence indicates that the Council's planning enforcement section is satisfied that no breach of planning control had occurred in relation to the Class C4.

Highway Safety and Convenience

6. The proposal would not provide off-street car parking. Although the Council's parking standards do not refer to parking provision for HMOs, it does not follow that proposed use would generate no parking demand. Whilst the Council considers that the proposed HMO could accommodate up to nine occupants, the appellant is seeking permission for eight occupants. This matter could be conditioned. The Council and the appellant also disagree over the likely level of car ownership of future occupiers. The Council's figure of 0.71 cars per household in the Milton ward is based on Census data for all households, whereas the appellant uses a figure of 35% ownership for UK tenants only². The appellant's data also suggests that the figure for HMOs is lower still. Notwithstanding local variations, I am inclined to the view that the car ownership of future occupiers of the proposed HMO would be closer to the appellant's national figures for tenanted and HMO households than the average for the Milton ward, which is likely to include a significant proportion of larger properties and owner-occupied households.
7. On this basis, the proposal would generate a demand for around three parking spaces. According to the Council, the approved Class C3 and the former Class B8 use would each require two spaces. Using the appellant's car ownership data, the Class C4 use of the property would generate a need for slightly more than two spaces.
8. I recognise that the limited amount of on-street parking in the area is well used. However, there is no substantive evidence to suggest that the area experiences particular highway safety problems. I also note that the proposal includes cycle parking and, that whilst the appeal site is not in the town centre, it is reasonably conveniently located for a range of local facilities, services and public transport options. As such, I consider that the relatively small increase in parking demand generated by the proposal would not have a material effect on highway safety or convenience.
9. The proposal would not, therefore, conflict with Policy DM15 of the Council's Development Management Document 2015 (DMD) to the extent that it requires residential development to meet the flexible application of the Council's parking standards and presumes against reliance on on-street car parking unless capacity exists. Nor would the proposal conflict with DMD Policy DM3 insofar as it presumes against development which would place undue stress on local transport infrastructure.

¹ Town and County Planning (General Permitted Development) (England) Order 2015

² Residential Car Parking Research 2007

10. The first reason for refusal refers to the National Planning Policy Framework. However, there is nothing in the Council's evidence to show how the proposal would conflict with its provisions.

Character of the Area

11. The Milton ward as a whole accommodates a high proportion of the registered HMOs in the Borough (33 out of a total of 75) and there may be other smaller HMOs which do not require planning permission. However, the nearest known HMO is some 0.2 miles from the appeal site and there is nothing to suggest that there is a concentration of such uses in the vicinity of the appeal site. Whilst I recognise that, in certain circumstances, HMO uses can be harmful to the character of an area, neither the submitted evidence nor the observations of my site visit, indicate that that is the case here. The Council has referred to examples of poorly maintained forecourts and inadequate refuse storage at HMOs elsewhere in Southend. However, there is no forecourt at the appeal property and space is available within the appeal site to accommodate waste storage. The details of this storage could be secured by condition.
12. Based on the available evidence, it would appear that the appeal property can be used as an HMO for up to six persons. The appeal proposal would increase the level of usage to eight persons. Whilst this represents a modest intensification of the existing use, I consider that it does not amount to an over-concentration of HMO use which would be harmful to the character of the area.
13. Concern has been expressed locally that the proposal would set a precedent for further proposals for HMO uses. However, each proposal must be dealt with on its merits.
14. Consequently, I conclude that the proposal would not conflict with Policies KP2 or CP4 of the Council's Core Strategy 2007 or DMD Policy DM1. Together, these policies require development to respect the character of the site and its surroundings, including in its scale and use.

Other Matters

15. Concern has been expressed locally that the proposal would generate noise and disturbance for neighbouring occupiers and lead to anti-social behaviour. Having regard to my conclusions above that the proposal would result in only a modest intensification of an existing use, I am not persuaded that it would be harmful to the living conditions of neighbouring occupiers.
16. Application plan 49MRSOS/02d shows the proposed light wells at the front of the building to be within the application site. Details of their enclosure can, therefore, be conditioned. An external waste pipe has been installed on the side elevation of the property. However, at the time of the site visit, it had been boxed in and painted to match the walls of the building. Whilst this feature detracts somewhat from the appearance of the building, of itself, it does not justify dismissing the appeal. Since the boxing is in place, a condition requiring its provision is unnecessary.
17. I understand that a projecting porch had previously been installed on the side elevation of the appeal property. However, the porch shown on the application drawings and installed at the time of my site visit is modest in depth and does

not overhang the highway. As such, the porch in place is acceptable. A condition requiring its alteration is, therefore, unnecessary.

18. The windows on the front elevation have been altered to include deep cills which give the overall openings similar proportions to the windows of No 51. They are, therefore, an improvement over the openings which existed previously. Since the altered windows are in place, a condition requiring their provision is unnecessary.

Conditions

19. The Council has suggested a list of nine conditions. For the reasons set out above, suggested conditions 3 (soil pipe enclosure) and 4 (window alterations) are unnecessary. With amendments, I consider that the remaining conditions meet the tests set out in the Planning Practice Guidance. A condition specifying the approved plans is required in the interests of certainty.
20. A condition requiring details of the light well enclosures is necessary to safeguard the character and appearance of the area. A condition preventing the use of the basement for sleeping accommodation is necessary to ensure satisfactory living conditions for future occupiers. Conditions requiring further details and implementation of cycle parking and refuse storage are required in order to meet national and development plan sustainable travel objectives and to safeguard the living conditions of future and neighbouring occupiers respectively.
21. A condition restricting occupancy of the property to eight persons is necessary in the interests of highway safety and to safeguard the living conditions of neighbouring occupiers.

Conclusion

22. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
Appeal Ref: APP/D1590/W/16/3155827
49 Milton Road, Westcliff on Sea, Essex SS0 7JP**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 49MRSOS/01A, 49MRSOS/02d, 49MRSOS/03 and 49MRSOS/04.
- 3) Prior to any construction works occurring at the site in relation to the formation of the light wells hereby approved, details of the means of enclosing the street-level of the light wells shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 4) The basement rooms of the building shall not be used to provide sleeping accommodation.

- 5) Prior to the occupation of the building for the use hereby permitted, details of the provision of cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be provided prior to the occupation of the building for the use hereby permitted and retained thereafter.
- 6) Prior to the occupation of the building for the use hereby permitted, details of the provision of refuse storage facilities at the site (including day-to-day refuse storage areas and day of collection storage areas as necessary) shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse storage facilities shall be provided prior to the occupation of the building for the use hereby permitted and retained thereafter.
- 7) The building shall not be adapted to enable the formation of more than eight bedrooms and shall not be occupied by more than eight people.