



Appeal Decision

Site visit made on 30 January 2017

by Graham Chamberlain BA MSc MRTPI

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

Decision date: 9th February 2017

Appeal Ref: APP/D1590/W/16/3162315

15 Portland Avenue, Southend-on-Sea SS1 2DD

- 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 Mrs Jayshree Ramdhary against the decision of Southend-on-sea Borough Council.
 - The application Ref 16/00141/FUL, dated 1 February 2016, was refused by notice dated 29 April 2016.
 - The development proposed is a change of use from a dwelling house (C3) to a larger House of Multiple Occupancy (Sui Generis) and external alterations.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from a dwelling house (C3) to a larger House of Multiple Occupancy (Sui Generis) and external alterations at 15 Portland Avenue, Southend-on-Sea SS1 2DD, in accordance with the terms of the application, Ref: 16/00141/FUL, dated 1 February 2016, subject to the conditions in the attached schedule.

Preliminary Matters and Main Issue

2. I have taken the description of development from the Council's decision notice as this more accurately describes the appeal scheme.
3. The main issue in this appeal is the effect of the proposal on the residential character of the area and the living conditions of the occupants of nearby properties with particular reference to the potential for noise and disturbance

Reasons

4. The appeal property is an attractive mid terrace period property located in Portland Avenue, a short residential street located between the town centre and Queensway. The property is well placed for convenient access to the numerous facilities and services available in the town centre and along the seafront. Due to the presence of compact terraced streets near to the appeal site, a large car park to its west and the proximity of the large and vibrant town centre, the area around the appeal site has a dense urban character.
 5. The appeal property is arranged over two floors and has recently been renovated. The renovations have included those works shown on the proposed drawings. As such, the appeal property now has seven bedrooms arranged over the ground and first floors with a living/kitchen area towards the back of the property. A bike rack has been erected in the modest rear garden. Six of the seven bedrooms are currently occupied by six individuals, which I understand
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are students. As such, the appeal property is currently a House of Multiple Occupancy (HMO) that appears to fall within the C4 use class.

6. The Council are concerned that the use of the appeal property as an HMO would harm the residential character of the area. I share the view of the Council that the clustering of HMO's can harm the established residential character and quality of an area. This can be through the physical alterations undertaken to achieve the accommodation or from a change in the character of the area due to a more intensive residential occupation, a less varied mix of properties and the transiency of occupation, which can undermine a sense of community and the upkeep of properties.
7. The conversion of the appeal property to an HMO as it currently stands has been achieved with minimal external alterations. The building retains little outward indication that it has been converted from a house to an HMO and has retained its architectural continuity and character. For example, the single main entrance has been retained along with the integrity of the front garden, with the front boundary wall left intact. There was not an unsightly proliferation of bins or any other physical manifestation of the HMO, which could be considered to harm the residential character of the area, such as a spread of aerials and other paraphernalia and clutter. Additionally, the garden has not been subdivided. On street parking in the vicinity of the appeal site is strictly controlled so the parking of any vehicles belonging to the existing or future occupants of the HMO is unlikely to harmfully affect the area. As such, the conversion to an HMO has not harmed the quality or character of the area.
8. The Council have suggested that the appeal scheme would add to the existing high concentration of HMOs in Milton Ward¹. However, I have not been presented with details confirming the size of the ward, the number of properties within it and thus the proportion of properties that are HMOs. As such, it is unclear whether there is an untypically high concentration of HMOs as a proportion of the housing stock. Given the proximity of the town centre, a high level of HMOs is not unexpected. There was also little substantive evidence to suggest that the perceived concentration was having any negative impacts. Furthermore, there are not many HMOs in the immediate vicinity of the appeal site² relative to the overall number of properties, so the change of use to an HMO would not compound any existing harmful clustering. On the contrary, the conversion to an HMO has the potential to widen housing choice.
9. The Council have also suggested that the HMO would result in an unreasonable level of noise and disturbance. The appeal property is located in a busy urban area with a high level of activity and background noise. In this context, the comings and goings from the appeal property are unlikely to be unduly notable and thus harmful. Additionally, the HMO includes a large communal space, which reduces the likelihood the bedrooms would be intensively occupied. Moreover, I have not been presented with evidence to suggest a harmful level of noise would penetrate through the walls into the adjoining properties and I have not been directed to any objection from the Council's Environmental Protection team.

¹ The Council have suggested that there are 75 registered HMOs within the Borough and 33 of these are in Milton Ward. Thus 44% of HMOs are located in one of the seventeen wards in the Borough. The numbers of unlicensed smaller HMOs are likely to increase this figure. The appellant has not disputed this.

² The Council have referred to five in the streets in close proximity to the appeal site

10. The bedrooms within the HMO meet the necessary space standards³ and the appellant has confirmed that she only intends to let the property to a maximum of seven individuals. As such there would not be any overcrowding, which can otherwise lead to an unreasonable level of noise and disturbance. The comings and goings from the appeal property, if occupied by seven individuals, would be modest and akin to the level of activity that could be similar to a large family. The number of people occupying the HMO can be limited through a planning condition. Taking these points together, I am satisfied the occupation of the HMO by seven people would not harm the living conditions of neighbours.
11. An HMO with only six occupants would be 'permitted development' as it would fall within use class C4. From what I observed, this is the current situation. In effect, the property is currently in use as an HMO and the appellant is seeking to utilise the unoccupied seventh bedroom for a seventh resident. There is nothing before me to suggest the existing use of the appeal site as an HMO has resulted in any harm to the character of the area or the living conditions of neighbours. During my visit I observed that the property was clean and tidy and apparently well maintained. Whilst this was only a snap shot in time, it is an indication that an HMO need not have an inherently harmful impact and that the addition of one more occupant is unlikely to alter this situation in this instance.
12. I therefore conclude that the appeal scheme would preserve the residential quality and character of the area and the living conditions of the occupants of nearby properties. Thus, it would adhere to the development plan as a whole, including Policies KP2 and CP4 of the Core Strategy 2007 and Policy DM1 of the Development Management Development Plan Document 2015, which expects new development proposals to contribute to a the creation of a high quality, sustainable urban environment by maintaining and enhancing the amenities and character of residential areas and responding to the local context. Aims consistent with Paragraph 58 of the National Planning Policy Framework.

Conditions

13. I have had regard to the advice in the Planning Practice Guide and the Council's list of suggested conditions. The works to facilitate the HMO have already commenced and are now complete. Consequently, it is unnecessary to impose a commencement conditions, to require implementation in accordance with approved drawings or for the works to match the existing property.
14. It is unclear whether the cycle-stand and bin area adheres to the Council's standards. As such, it is necessary to impose the relevant conditions suggested by the Council. It is also necessary in the interests of safeguarding the living conditions of neighbours and future occupants to limit the number of individuals that can reside in the HMO. The Council have suggested the limit should be nine, but I have altered this to seven as this is in line with the appellant's intentions and is a more appropriate quantum given the number of bedrooms.

Conclusion

15. For the reasons given above I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

³ In the Essex Approved Code of Practice for HMOs 2012

Schedule of Conditions

- 1) Within two months of the date of this permission, details of the provision of cycle storage shall be submitted to and approved in writing by the local planning authority. The cycle parking shall subsequently be provided in accordance with the approved details and within two months of written approval having been given. The cycle store shall therefore be retained in its approved form.
- 2) Within two months of the date of this permission, 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 within one month of the approval of such details and retained at all times.
- 3) The building shall not at any time be adapted to enable the formation of more than 7 bedrooms and shall not be occupied by more than 7 people at any one time.