

Appeal Decision

Site visit made on 27 February 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 6th March 2017

Appeal Ref: APP/B1415/W/16/3162855

121, Mount Pleasant Road, Hastings TN34 3SL

- 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 C Marlowe against the decision of Hastings Borough Council.
 - The application Ref HS/FA/16/00476, dated 14 June 2016, was refused by notice dated 22 September 2016.
 - The development proposed is conversion of dwelling into a House in Multiple Occupation (HMO).
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form did not specify the proposed number of rooms within the HMO, although the submitted plan and the design statement indicated an intention to provide 9 bedrooms. Prior to the determination of the application various alternative internal layouts were discussed between the parties. However, the Council's decision notice refers to the proposal shown on Drawing No: BA1655.03 Rev F. I have determined the appeal on the basis of this layout.

Main Issue

3. The main issue is whether or not the proposed conversion would result in the unacceptable loss of a single-family dwelling.

Reasons

4. No 121 is a mid-terraced Victorian dwelling with accommodation on three floors. The ground floor comprises a living/dining room, kitchen and W/C; the first floor has two good-sized bedrooms and a family bathroom; the second floor has three further bedrooms, one of which is considerably smaller than the other two. The proposal is to convert the house into an HMO with 7 bedrooms.
 5. The Hastings Planning Strategy (HPS) identified key features of the local housing market to be a bias towards smaller dwellings, a large private rented sector and high levels of deprivations. Consequently, retaining and providing more family homes and larger dwellings is one of the objectives of the Council's regeneration strategy. The Hastings Development Management Plan (HDMP) and the HPS therefore seek to encourage provision and retention of larger homes, with three bedrooms or more, in order to promote an appropriate mix of dwellings that meets local needs.
-

6. Policy HC1 of the HDMP states that conversion of a dwelling into another use will normally be permitted, subject to compliance with a series of criterion, the first of which is that the building can no longer be retained in its entirety for single-family housing occupancy. The supporting text advises that the assessment of whether or not a house should be retained as a single dwelling will take into account the existing number of bedrooms. Whilst it is acknowledged that large single dwellings can provide a useful source of new units of accommodation, the HDMP advises that this should not be achieved at the expense of the loss of valuable family housing. Similarly Policy DS1 of the HPS seeks to protect the existing stock of family housing, retaining such dwellings unless they are unsuitable for residential use.
7. The existing dwelling provides accommodation that is highly suitable for occupation by a large family. The five bedrooms are a good size without being excessively large and there is a garden providing external amenity and play space for a family with children. However, whilst the appellant demonstrated how the building could function as an HMO, there was no substantive evidence presented to explain why it could not be retained in its entirety as a family home. Consequently, the proposed conversion fails to comply with the requirements of criterion (a) of Policy HC1.
8. I therefore conclude that the proposed conversion would result in the unacceptable loss of family housing, contrary to Policy DS1 of the HPS and Policy HC1 of the HDMP, both of which seek to protect and retain larger dwellings for occupation by single families.

Other Matters

Space standards

9. Policy HC1 also sets out a series of additional criteria which have to be met in order for a conversion to be acceptable. I acknowledge that the proposed conversion would not involve extensive internal or external works. The existing living/dining room would be sub-divided, in all probability recreating the original two-room layout. On the first floor the sub-division of bedroom 5 to provide a shower room would appear to be acceptable; similarly the provision of a bathroom on the second floor in the smallest of the three bedrooms would be appropriate. In these respects the proposal would comply with criterion (b).
10. However, the sub-division of the first floor bedroom into two rooms would be far from ideal. Whilst both rooms would appear to have adequate floor space to operate as an HMO, the resultant shape of bedroom 3 would be very awkward. The Council has drawn my attention to its HMO amenity standards which state that the minimum room sizes are subject to each room being of a shape offering adequate useable living space when determining its suitability for occupation.
11. In my view the shape of bedroom 3, which would include a chimney breast and fireplace but only part of the bay window, would severely restrict the space available for a bed and other vital pieces of furniture. I therefore consider that the combination of the sub-division of the room and the resultant poor layout would be contrary to criterion (b) of Policy HC1. This adds to my concerns about the proposed conversion and its suitability to operate as a 7 bedroom HMO which could provide adequate living standards for future occupants.

Permitted development rights and proportions of HMOs

12. There are instances where the conversion of a single-family dwelling (Class C3) into a small HMO (Class C4) can be permitted development under Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, Class C4 is defined as use of a dwelling house by not more than six residents as a "house in multiple occupation" (HMO).
13. The appeal proposal seeks permission for an HMO with 7 bedrooms and it could be occupied by as many as eight people, as one of the bedrooms is large enough to be considered as a double room. It therefore could not be permitted development, even though it would remain as a single dwelling. Larger shared properties occupied by seven or more unrelated individuals are unclassified by the Use Classes Order and are therefore considered to be "sui-generis". Consequently, permitted development rights that may be available in other circumstances are not relevant to my determination of this appeal.
14. In any event, the Council has an Article 4 Direction that effectively removes the permitted development right under Class L. A change of use of a single-family dwelling into a shared house occupied by between three and six unrelated individuals therefore requires planning permission. As the numbers of HMOs in the town is already high, the purpose of the Article 4 Direction is to provide the Council with control over their numbers and locations. Alongside the Article 4 direction, Policy H4 of the HPS seeks to prevent the town having more than 10% of HMOs in any particular area, in order to ensure that local communities are mixed in terms of housing tenure and the people that live there.
15. In this case the proposed conversion would not breach the limit of 10% of the properties within 100m of the appeal site already being HMOs. The Council did not consider the proposal would be contrary to Policy H4 and I have no reason to come to a different view. However, compliance with Policy H4 does not diminish the harm that would arise from the loss of a larger single-family housing unit, for which there is an identified need. Neither is the possibility that the building could revert to a house in the future, with only limited physical alterations, a reason for permitting a development that would be contrary to the development plan.

Planning history

16. I note that permission was granted to convert the house into a flat and a maisonette in 1989, Ref: HS/FO/89/00116. However, this scheme would have been assessed against different planning policies and was not implemented. It is therefore a matter which attracts little weight in my determination of the current proposal.

Conclusion

17. For the reasons set out above, I conclude that the loss of a single-family dwelling would be unacceptable and therefore the appeal should be dismissed.

Sheila Holden

INSPECTOR