
Appeal Decision

Site visit made on 31 October 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 23 November 2017

Appeal Ref: APP/J2210/W/17/3179831
95 Sturry Road, Canterbury CT1 1DA

- 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 F Mirtorabi against the decision of Canterbury City Council.
 - The application Ref 17/00897, dated 12 April 2017, was refused by notice dated 17 June 2017.
 - The development proposed is described as "Conversion and alterations of 2 no. flats and 1 house of multiple occupancy into one house of multiple occupancy".
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form cites the address of the appeal property as 95 Sturry Road. However, the proposal also relates to the adjoining property 97 Sturry Road. In addition, whilst the description of the proposed development makes reference to 'conversion and alterations', the submitted plans show that some extensions are also proposed to the appeal properties. I have considered the appeal on the basis of these factors.
3. In July 2017 the Council adopted the Canterbury District Local Plan. Consequently, Policies DBE3 and HD6 of the Canterbury District Local Plan Publication Draft 2014, as referred to on the Council's decision notice, have now become Policies DBE3 and HD6 of the Canterbury District Local Plan 2017 (Local Plan). Furthermore, Policy BE1 of the Canterbury District Local Plan First Review 2006 (LPFR), also referred to on the Council's decision notice, has been superseded by Policy DBE3 of the Local Plan and thus carries no weight. I have considered the appeal on this basis.

Main issues

4. The main issues are whether the proposal would result in an overconcentration of houses in multiple occupation (HMOs) in the locality, and if so, the effects of this on the character and amenity of the area; and whether the proposal would provide adequate living conditions for any future occupiers.

Reasons

Concentration of HMOs

5. The appeal properties are a pair of semi-detached dwellings which front onto Sturry Road. No 95 is currently in use as a HMO and No 97 comprises two separate apartments. The rear gardens of the appeal properties back onto a large block of student accommodation and there are some commercial and retail facilities in the locality. However, the area retains a predominantly residential character. The proposal seeks to extend both properties and to convert them to a single large HMO with 15 double bedrooms and some communal facilities for use by students.
6. Canterbury City Council executed a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 (Article 4 Direction) which took effect on 25 February 2016. The Article 4 Direction removed permitted development rights for the change of use from single dwellinghouses (Use Class C3) to small houses in multiple occupation (Use Class C4) within the Canterbury area. Though the proposal is for a large HMO and thus would require planning permission in any event, the appeal properties lie within the area subject to the Article 4 Direction.
7. Policy HD6 of the Local Plan sets out that in order to maintain an appropriate housing mix and to safeguard the character of local communities, the proportion of HMOs within the areas subject to the Article 4 Direction should not exceed 10% of the total number of dwellings within a 100 metre (m) radius of any application property. Moreover, that the change of use to HMOs or extensions to existing HMOs will not be permitted where that proportion would be exceeded. The policy also sets out that in areas where there is already an exceptionally high proportion of HMOs, such as in any particular block of properties, consideration will be given to permitting further conversions. Policy DBE3 of the Local Plan requires, amongst other things, development to promote, protect and enhance the distinctive character, diversity and quality of the District and to positively contribute to its local context.
8. The Council indicates that HMOs constitute over 20% of the total number of properties within a 100m radius of the appeal properties. I have no substantive reasons to dispute this figure. HMOs in the area therefore already surpass the Council's required maximum threshold and the proposal would exceed this further. Thus, it would add to an existing overconcentration of HMOs in the locality which would fail to maintain an appropriate housing mix in the area.
9. The supporting text to Policy HD6 of the Local Plan identifies that there is evidence that a high proportion of HMOs in any given area changes the character of the area, and the nature of the local community. Furthermore, that the Council has undertaken research that indicates that levels of late-night disturbance, untidy gardens and incidents of litter and poor storage of refuse experienced by local residents are significantly higher in areas with higher proportions of HMOs than those with lower proportions. I have no substantive reasons to doubt the findings of this research and the policy is in place to prevent such problems from arising. Thus, the proposal, which would exacerbate the existing overconcentration of HMOs in the locality, would also fail to safeguard the residential character and amenity of the area.

10. Moreover, there is no substantive evidence before me to demonstrate that there is a shortage of HMO provision in the District to justify any overriding need. Nor do I consider that the proportion of HMOs in the area could reasonably be described as exceptionally high to justify the permission of further conversions or extensions.
11. I therefore conclude that the proposal would be contrary to Policies HD6 and DBE3 of the Local Plan. These are recently adopted policies which have been found to be sound and thus I afford them significant weight. It would also be contrary to the aims and objectives of the National Planning Policy Framework (the Framework) which seek to promote inclusive and mixed communities.

Living conditions

12. I recognise that the proposal would provide a good level of communal facilities and external amenity space for any future occupiers. However, proposed Bedroom 5 would have a window facing onto what would appear to be a small courtyard and a wall of Bedroom 6. This modest size of the courtyard and close proximity of the wall to this window would provide an overwhelming sense of enclosure to Bedroom 5 and would thus provide a poor level of outlook for any future occupier or occupiers of this bedroom. The window of proposed Bedroom 7 would face the shared boundary of 95 and 93 Sturry Road from a modest distance. This would provide an overwhelming sense of enclosure to Bedroom 7 and would provide a poor level of outlook for any future occupier or occupiers of this bedroom also.
13. I therefore consider that the proposal would, overall, provide inadequate living conditions for some of its intended future occupiers. This would be contrary to Policy DBE3 of the Local Plan, which requires, amongst other things, development to consider the amenity of future occupiers. It would also be contrary to the aims and objectives of the Framework which seek to secure a good standard of amenity for all future occupants of land and buildings.

Other matters

14. The proposal would occupy a location with a good level of access to public transport routes and local services and facilities, including universities, for any future occupiers. However, this is already the case for any current occupiers. I also acknowledge the appellant's argument that some improvements would be made to the appearance of the appeal properties which would make them commercially sustainable. Nonetheless, they did not appear to me to be particularly unattractive in their current form. Nor is there any substantive evidence to demonstrate that the appeal properties are currently commercially unsustainable. I therefore afford limited weight to these matters and as such, they would not be sufficient to outweigh the harm I have identified.

Conclusion

15. Planning law¹ requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. As set out above, I have found that the proposal would conflict with the relevant policies of the development plan. I do not consider that there are any material considerations that indicate that the

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

proposal should be determined otherwise than in accordance with the development plan.

16. Accordingly, for the reasons set out above and having regard to all other matters, including property devaluation and outlook, privacy and light issues in respect of the occupiers of neighbouring properties, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR