



Appeal Decision

Site visit made on 19 November 2019

by G Pannell BSc (Hons) MA MRTPI

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

Decision date: 12th December 2019

Appeal Ref: APP/D1590/W/19/3236129

73 Salisbury Avenue, Westcliff-on-Sea SS0 7BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Property Point KAS Ltd - Mr Saunders against the decision of Southend-on-Sea Borough Council.
 - The application Ref 19/00911/FUL, dated 15 May 2019, was refused by notice dated 11 July 2019.
 - The development proposed is change of use from 6 bed (Class C4) HMO with maintenance store to 7 bed (Sui Generis) House in Multiple Occupancy.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from 6 bed (Class C4) HMO with maintenance store to 7 bed (Sui Generis) House in Multiple Occupancy at 73 Salisbury Avenue, Westcliff-on-Sea SS0 7BA in accordance with the terms of the application, Ref 19/00911/FUL, dated 15 May 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 548-300 Existing Site and Location Plans; 548-301 Existing Plans; 548-302 Existing Roof Plan; 548-303 Proposed Plans.
 - 3) Prior to the occupation of the 7th bedroom, details of the provision of cycle storage shall be submitted to and approved in writing by the local planning authority. The cycle parking shall be provided in accordance with the approved details prior to occupation of the 7th bedroom and shall thereafter be retained in its approved form.
 - 4) Prior to the occupation of the 7th bedroom, 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 7th bedroom and retained at all times.
 - 5) The building shall not at any time be adapted to enable formation of more than 7 bedrooms and shall not be occupied by more than 7 people at any one time.

Application for costs

2. An application for costs was made by Mr Saunders against Southend-on-Sea Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is the effect of the proposal on 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 a mid terrace property located in Salisbury Avenue, a residential street of similar properties. The area is characterised by compact terrace streets and the presence of parked cars on both side of the street lead to a dense urban character.
5. The accommodation is currently arranged over three floors and comprises 6 bedrooms. This includes on the second floor one bedroom and a maintenance store. The appeal property is currently a House in Multiple Occupancy (HMO) that appears to fall within the C4 use class.
6. The appeal proposal would result in the existing store room on the second floor being converted to an additional bedroom which would result in a development beyond that permitted by Class C4. The Council are concerned that this would result in an unreasonable level of noise and disturbance.
7. The appeal property is located in a residential street, with other dwellings in close proximity to one another. In this context the comings and goings from the occupants of one additional bedroom at the appeal property would not result in any undue increase in noise and disturbance to other residents. The appellant has indicated that they are willing to accept a condition limiting the occupation of the property to 7 occupants. Therefore there is nothing to suggest that the occupancy of the building would result in any overcrowding, which can otherwise lead to an unreasonable level of noise and disturbance.
8. I consider that the occupation of the dwelling would be modest and akin to the level of activity that could be similar to a family occupying the property. Moreover, I have not been presented with evidence to suggest a harmful level of noise would penetrate through walls into the adjoining properties and there is no objection from the Council's Regulatory Services team.
9. I am satisfied that the occupation of the HMO to seven people could be limited to a planning condition and that such a condition would meet the relevant tests of the Planning Practice Guidance. I have also been directed to other decisions by the Council where such a condition has been used.
10. The property is already in use as an HMO for 6 occupants and the appellant is seeking to utilise the unoccupied store as a seventh bedroom. There is nothing before me to suggest that the existing use of the appeal site as an HMO has resulted in any harm to the living conditions of neighbours.
11. I therefore conclude that the appeal scheme would not harm the living conditions of the occupants of nearby residents, by virtue of increased noise and disturbance. The proposal would comply with policies KP2 and CP4 of the Southend on Sea Core Strategy 2007 which set out the design principles for

development and Policy DM1 and DM3 of the Southend on Sea Development Management Document 2015, which require developments to protect the amenity of immediate neighbours having regard to noise and disturbance.

Conditions

12. The Council has suggested 5 conditions. I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord.
13. The council has suggested conditions relating to the provision of bin and cycle storage and whilst these have been indicated on the plan it is not clear whether these accord with the Councils standards and therefore I have found it necessary to require further details of these to be submitted.
14. 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.

Conclusion

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

G. Pannell

INSPECTOR