



Appeal Decision

Site visit made on 25 November 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 13 December 2019

Appeal Ref: APP/W1715/W/19/3236811

66 Kipling Road, Eastleigh SO50 9DY

- 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 Tomlinson against the decision of Eastleigh Borough Council.
 - The application Ref F/19/85959, dated 26 June 2019, was refused by notice dated 23 August 2019.
 - The development proposed is change of use of building from C4 HMO (up to 6 occupants) to 11 occupants (*sui generis*).
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Decision

1. The appeal is allowed and planning permission granted for the change of use of building from C4 HMO (up to 6 occupants) to 11 occupants (*sui generis*) at 66 Kipling Road, Eastleigh SO50 9DY in accordance with the terms of the application, Ref F/19/85959, dated 26 June 2019, 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: 1:1250 scale site location plan; 1:500 scale 'Block Plan'; and 1:100 scale 'Current Floor Plan'.
 - 3) The occupation of the house in multiple occupation hereby permitted shall be limited to a maximum of 11 persons.

Procedural Matters

2. I have taken the description of development from the Council's refusal notice and the appellant's appeal form as this is more precise than the description of development on the planning application form.
3. In their decision notice the Council refer to Policies DM1 and DM14 of the emerging Eastleigh Borough Local Plan 2016-2036, which has been submitted for independent examination. However, as the Borough Local Plan has yet to be found sound, I afford it limited weight in my consideration of this appeal.

Main Issues

4. The Council's refusal notice refers to the effect of the development on internal communal space and highway safety. It also refers to the effect of the development on *'the amenities of the occupiers of the neighbouring dwellings'*.

In respect of this latter issue, it is clear from reading the Council's officer report that this relates to anti-social behaviour. Therefore, the main issues are:

- Whether future occupiers would be likely to experience acceptable living conditions, with regard to internal communal space;
- The effect of the proposal on the living conditions of the occupiers of neighbouring dwellings, with regard to anti-social behaviour;
- The effect of the proposal on parking conditions, and consequently highway safety.

Reasons

Living conditions – future occupiers

5. The appeal property is an extended semi-detached property positioned at the corner of Kipling Road and Browning Close. Kipling Road lies within a predominantly residential area between Woodside Avenue and Eastleigh town centre.
6. The proposal would change the use of the property from a house in multiple occupation (HMO) (up to 6 occupants) to up to 11 occupants. There are six bedrooms within the property and the proposal would allow each of the five largest bedrooms, all of which I saw on my site visit have en-suite bathroom facilities, to be used by two co-habiting people.
7. I also saw the internal communal space within the property. It includes a dining area off the kitchen with a dining table and chairs and a conservatory arranged as a living room. The Council calculate the communal space equates to approximately 27 square metres. In this regard they state that it is too small for 11 occupants because it is significantly less than the 37 square metres that would be required for a single storey dwelling for one person, as outlined in the 'Technical housing standards – nationally described space standard' (NDSS). However, the Council's reference to 37 square metres in the NDSS is in respect of the minimum gross internal floor area of a dwelling, defined as the total floor space measured between the internal faces of perimeter walls that enclose the dwelling. Thus, is not directly relevant to the consideration of communal floor space within a HMO, as in this case.
8. Nevertheless, my attention has been drawn to the Council's 'HMO Information Pack, November 2018' which includes 'Guidance Standards for Houses in Multiple Occupation'. For shared kitchen facilities, such as in this case, the guidance does not state a minimum size for communal space. Instead, it refers to 'officer discretion'. Taking into account the size and layout of the dining area and conservatory, in my view, I consider that the proposal would not give rise to a poor quality or cramped living environment.
9. The Council's first reason for refusal also refers to the proposal being '*out of character with development in the locality*'. However, the Council has not substantiated its reason for refusal in terms of the effect of the development on the character of the area. I acknowledge that the proposal would result in a more intensive use of the building (i.e. from 6 to 11 occupants), but I do not consider that this in itself would cause harm to the character of the area. The area is predominantly residential in character and the proposal would not lead to any adverse impacts in this regard.

10. For the reasons outlined above, I conclude that no material harm would be caused to the living conditions of future occupiers of the proposed development in respect of internal communal space. Furthermore, in this regard, the proposal would not cause harm to the character of the area.
11. Consequently, I conclude that the proposal would accord with the Quality Places Supplementary Planning Document 2011 and Policy 59.BE of the Eastleigh Borough Local Plan Review 2006 (LPR), which set out to ensure proposals have enough internal space for residents to use comfortably and to support a practical quality of home life and take account of the context of the site including the character of the locality.

Living conditions – occupiers of neighbouring dwellings

12. Third parties indicate that there is some history of anti-social behaviour at the property. This relates to a problem with litter around the property and occupiers smoking outside the front door at unsociable hours.
13. I acknowledge that litter and smoking outside the property are understandably matters of concern to the occupiers of neighbouring dwellings, especially considering the perceived behaviour of some occupiers of HMO's. However, I do not consider that the proposed increase in the number of occupants at the property would necessarily give rise to a heightened litter problem or increased occurrences of smoking outside the property. Thus, in this regard, whilst I recognise the concerns raised, there is no compelling evidence before me to indicate that the proposal would give rise to an increase in anti-social behaviour.
14. For these reasons, therefore, I conclude that no material harm would be caused to the living conditions of the occupiers of neighbouring properties in respect of anti-social behaviour. Consequently, the proposal would accord with Policy 59.BE of the LPR in so far as it seeks to protect living conditions.

Parking

15. Parking space in Kipling Road and Browning Close is provided within front gardens and on-street. Both off-road and on-street parking is therefore an established feature in the vicinity of the appeal site. Moreover, these streets are not subject to any parking restrictions.
16. From my site visit, I saw that the site is located close to shops and facilities in Eastleigh town centre and the retail park on Woodside Avenue. Both the town centre and Eastleigh railway station are less than 1 mile away from the site and are readily accessible for pedestrians and cyclists. Therefore, based upon my findings and the evidence provided by both main parties, there is no dispute that the site is in a highly accessible location near public transport links, with excellent pedestrian and cycle links.
17. There are four parking spaces in the front garden of the appeal site. The Highway Authority acknowledge six vehicle parking spaces are available for the existing six occupant HMO, through the provision of the four off-road spaces and general on-street parking. However, the appeal proposal, although it would not increase the number of bedrooms within the property, would by virtue of an increase in the number of occupants to a maximum of eleven, have the potential to generate additional demand for parking space should future occupants own a car.

18. The Eastleigh Borough Council Residential Parking Standards Supplementary Planning Document January 2009 (SPD) indicates the parking standards for general residential properties. Although no standard is set out for a HMO, the SPD does refer to Policy 86.H of the LPR which states, amongst other things, that proposals for the sub-division of a residential property for the purposes of multiple occupation will be permitted provided a number of criteria are met, including that they should not overload existing roads and parking facilities.
19. In this case, notwithstanding that the property has already been sub-divided for the purposes of multiple occupation, concern has been raised that without additional provision of off-road parking space the proposal would potentially adversely affect the on-street parking provision as a result of pressure and hence competition for parking spaces in the vicinity of the site.
20. At the time of my site visit (around 9:30am), which I acknowledge is a snapshot in time, I saw that there was good availability of parking spaces on-street in the vicinity of the site. Furthermore, although I cannot be certain that the cars I saw parked on-street were those of residents or visitors, I did not see, at the time of my site visit, any substantive evidence of commuter parking in the immediate area. Third parties nonetheless indicate that high demand for on-street parking space occurs in Kipling Road and Browning Close, particularly when residents return home from work.
21. Notwithstanding that many properties have off-road parking provision I do not doubt that during evenings and weekends, when residents are home and visitors call, there is increased demand for on-street parking spaces. However, I have no compelling evidence before me, including any survey evidence, to illustrate the on-going availability of on-street parking space in the streets around the appeal site. As such it has not been demonstrated that on-street parking in the vicinity of the site is currently at full capacity.
22. Taking into account that five of the six existing bedrooms would be for co-habiting occupants and the highly accessible location of the site, I consider that there is a reasonable possibility of shared car ownership/use amongst the future occupants. Whilst not preventing car ownership, these factors would provide the potential for the future occupants, or indeed the existing occupants, to live car-free.
23. The Council's reason for refusal sets out that there would be harm caused by the proposal because it fails to provide adequate provision for off-road parking, which would encourage the parking of vehicles on-street and so interrupt the free flow of traffic and cause a hazard to road users. However, I have not been presented with any evidence as to how the additional future occupants (should they own a car) choosing to park in Kipling Road or other surrounding streets would lead to actual harm to highway safety. Furthermore, although there are only four parking spaces off-road at the site, I have been given no reason to indicate this would necessarily lead to future occupants choosing or being forced to park illegally or dangerously, particularly in light of the lack of compelling evidence that on-street parking space in the vicinity of the site is currently at full capacity.
24. I have taken into account the comments made by other interested parties that existing parking issues in the vicinity of the site have, on occasion, resulted in bin lorries not being able to collect refuse from properties in Browning Close. Moreover, the existing issues have resulted in tight spots along the road,

making it difficult for vehicles to pass and unsafe for cyclists and motorists. However, I am satisfied, on the evidence before me, that the proposal would not unacceptably exacerbate these issues, furthermore, I note that the Highway Authority have not objected to the proposal in this regard.

25. In conclusion on this main issue, even if the proposed development were to result in the additional demand for on-street parking spaces, there is no substantive evidence to suggest that this would result in the interruption of the free flow of traffic or cause a hazard to road users.
26. Consequently, for the reasons outlined above, I am satisfied that the proposed development would not harm highway safety. It would therefore accord with Policies 59.BE, 100.T, 104.T of the LPR and the SPD which, amongst other things, seek to ensure proposals minimise their impact on the existing transport network by not overloading existing roads and parking facilities.
27. The proposed development would also be compliant with the National Planning Policy Framework, which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

28. Third parties have raised a range of issues about the proposal. These include concern that the sewerage system would not be able to cope, provisions for the storage of cycles, provisions for the storage and collection of waste, and concerns about the overall standard of accommodation with regard to room sizes within the property and kitchen and bathroom facilities. These concerns are not shared by the Council. I see no reason to disagree.
29. I note that concerns have also been raised that the proposal would devalue house prices in the neighbourhood. However, it is well-established¹ that the planning system does not exist to protect private interests such as the value of property.

Conditions

30. Planning permission is granted subject to the standard three-year time limit condition. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of certainty.
31. I have considered the effects of the proposed development to be acceptable on the basis of 11 occupants. Thus, it is necessary and reasonable to impose a condition restricting occupation of the HMO to a maximum of 11 persons.

Conclusion

32. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Andrew Bremford

INSPECTOR

¹ Planning Practice Guidance - Paragraph: 008 Reference ID: 21b-008-20140306