
Appeal Decision

Site visit made on 6 January 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 21st January 2020

Appeal Ref: APP/A2280/W/19/3230674

36 Kingswood Road, Gillingham ME7 1DZ

- 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 Jamie Chapman against the decision of The Medway Council.
 - The application Ref MC/18/3652, dated 21 December 2018, was refused by notice dated 26 March 2019.
 - The development proposed is change of use of residential house (Class C3) to a 8-bedroom House in Multiple Occupation (Sui generis) use.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Section E of the appeal form indicates that the description of development has been changed. I have therefore used the description from the decision notice.
3. At the time of my site visit, works were underway to convert the property. The works appeared to be in line with the proposed drawings and I have assessed the appeal based on the drawings before me.
4. The Council included only one reason for refusal but with several main issues and policies therein, I have therefore considered each of the main issues with reference to only those policies that are directly relevant in each case.

Main Issues

5. The main issues are:
 - whether the proposed development would provide a suitable location for a House in Multiple Occupation (HMO), having regard to the provisions of the development plan;
 - whether the proposed development would provide a suitable living environment for future occupiers with particular regard for outlook and light; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard for highway congestion.

Reasons

Location

6. The Council's development plan seeks to ensure the provision of a range of housing to meet identified needs and does not preclude HMO development. Specifically, Policy H7 of the Medway Local Plan Adopted May 2003 (LP) states that dwellings intended for multiple occupation will be permitted subject to a number of criteria, the first of which requires the property to be in an area with a predominantly mixed-use or commercial character.
7. From the evidence before me, Kingswood Road is a residential street primarily characterised by two storey dwellings that generally appear to be single family dwellings. I acknowledge that the appeal property is flanked by a hostel on one side and an HMO on the other, which would satisfy criterion (iv) of the Policy. I also acknowledge that the rear garden of the appeal building is flanked by car parks of the adjacent properties. In addition, I note the proximity to the railway station and Gillingham town centre.
8. However, from the evidence before me, many of the other properties along Kingswood Road appear to be single family residential properties. Therefore, even if the property is too large to reasonably expect its occupation by a single household, I consider the character of the area to be residential in nature and predominantly single dwelling houses with only a few subdivided properties. Hence the development would conflict with part (i) of the Policy which requires the property to be in an area with a predominantly mixed-use or commercial character.
9. Consequently, the proposed development would not provide a suitable location for an HMO, having regard to the provisions of the development plan. Therefore, it would conflict with LP Policy H7 which permits dwellings intended for multiple occupation subject to certain criteria.

Living environment

10. The proposal includes two bedrooms at lower ground floor. While views of the sky are possible by standing near to the windows of both rooms, given the modest depth of the lightwells, the view from a large part of both rooms are very restricted such that the outlook is dominated by a wall at close proximity. Given the shared nature of the whole property, it is likely that each future occupant would spend significant periods of time in their bedroom. Consequently, given the outlook from these bedrooms, the development would not provide a suitable living environment for future occupiers.
11. I note the evidence regarding the levels of natural light. However, while the outlook from both lower ground bedrooms are restricted, the windows are of a sufficient size to allow adequate levels of daylight into the rooms. While I acknowledge that the rooms exceed internal space size requirements, this does not override the adverse effects of the development with regard to outlook as identified above.
12. Consequently, the proposed development would not provide a suitable living environment for future occupiers with particular regard for outlook. Therefore, the proposal would conflict with the aims of LP Policy BNE2 which seeks to secure the amenities of its future occupants. It would also conflict with the National Planning Policy Framework (Framework) in this respect which

promotes health and well-being, with a high standard of amenity for existing and future users.

Living conditions

13. Kingswood Road is subject to parking restrictions. From the evidence before me and my observations during the site visit in the afternoon on a weekday, the parking spaces along Kingswood Road appear over-subscribed. I also note comments from neighbours regarding parking provision in the area.
14. The proposal does not include any off-street parking provision for the future occupants of the eight proposed bedrooms. However, I note the proximity of the site to the town centre, railway station and bus services and I acknowledge that the appellant has indicated a willingness to restrict the number of future occupants to eight. Accordingly, it is less likely that the residents would require provision for parking.
15. Consequently, it is likely that the increased demand for parking would be minor thereby resulting in limited effects on activity levels and highway congestion. Therefore, it is unlikely that the proposal would unduly affect the living conditions of neighbouring occupiers in these respects.
16. I note the condition suggested by the Council. However, since there is no mention of the development within the condition, it would not be relevant to the development to be permitted. I have considered the use of a negatively-worded condition that would prevent the development from being occupied until arrangements have been made to prevent occupiers from obtaining parking permits. However, since the appeal scheme is an HMO, such a condition would not be enforceable or reasonable in all other respects.
17. Consequently, the proposed development would not harm the living conditions of neighbouring occupiers with particular regard for highway congestion. Therefore, it would not conflict with LP Policy BNE2 in this particular respect which requires that the design of development should have regard to activity levels and traffic generation. It would also not conflict with the Framework in this particular regard.

Other Matters

18. I note that the site lies within 6km of the North Kent Marshes SPA/Ramsar Sites. Had I found that the appeal development would have provided a suitable location for an HMO and not have a harmful impact on the future occupiers of the proposed development in terms of outlook, I would have found it necessary to investigate this matter in greater detail as part of my appropriate assessment. However, in the circumstances of this case this has not proved to be a determinative matter given the harm that would arise from the development.
19. From the evidence before me it appears likely that the proposed development would give rise to at least some harm to the designated sites were that harm not to be mitigated. I note that the appellant has paid a financial contribution towards a SAMMs¹ agreement for 7 units minus the existing dwelling. However, since this proposal is for 8 units, and details of the SAMMs are not before me, I cannot be certain that the proposal would not adversely affect the integrity of

¹ Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM)

the North Kent Marshes SPA/Ramsar Sites. In any event, this issue has not been determinative in the outcome of this appeal.

20. I note the comments relating to permitted development rights as a potential fall-back position. Given the nature of the proposal and that works on site have begun, it is possible that this option could be pursued if this appeal failed. However, since a five bedroomed HMO would not include the basement rooms with restricted outlook, it would have a less negative effect on the living environment of future occupiers. Therefore, such a scheme would not be similar to, or materially worse than, what is currently proposed. Therefore, this point has not altered my overall decision.
21. I acknowledge the other matters raised including the government's objective to significantly boost the supply of housing, the contribution that small and medium sites can make to meeting the housing requirement of an area as well as the national demand for housing and local demand for HMOs. I also note evidence regarding objections from statutory consultees. I acknowledge the economic benefits during the construction phase and that the proposal would contribute to the local housing supply. However, since the proposal would result in very restricted outlook from the basement rooms and would conflict with the development plan as a whole, given the limited contribution to local housing supply, these points do not override the adverse effects of the proposal.
22. I acknowledge local concerns including those regarding waste management, noise and privacy. However, this has not altered my overall decision.
23. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. For the reasons given above, including conflict with the development plan as a whole, I have found that there were sufficient grounds for refusing planning permission and this point has not altered my overall decision.

Conclusion

24. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR