
Appeal Decision

Site visit made on 21 January 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/U1105/W/19/3238164
12-14 Morton Road, Exmouth EX8 1AZ

- 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 J Garrett against the decision of East Devon District Council.
 - The application Ref 19/0203/FUL, dated 29 January 2019, was refused by notice dated 4 September 2019.
 - The development proposed is the change of use of building from nursing home to 19 bed house of multiple occupation (large HMO).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of building from nursing home to 19 bed house of multiple occupation (large HMO) at 12-14 Morton Road, Exmouth EX8 1AZ, in accordance with the terms of application, Ref: 19/0203/FUL, dated 29 January 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr J Garrett against East Devon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have amended the original description of development to reflect that provided within the Council's decision notice and as stated at section E of the appeal form in the interests of accuracy and consistency. The evidence before me indicates that the Council provided agreement to the Appellant for the change of description to be made.

Main Issues

4. The main issue in this appeal is the effect of the appeal scheme on the character and appearance of the surrounding area and its effect on the living conditions of nearby residents.

Reasons

5. The appeal site is located within a residential area of Exmouth and comprises 12-14 Morton Road, being attached residential dwellings which are three storey in height. Planning history for the site confirms that these attached dwellings have been previously in use as a guest house and, more recently, a nursing

home. Planning Permission was granted in 2017¹ for the conversion of the nursing home into ten residential apartments (the Existing Planning Permission).

6. From the evidence submitted and from observations made on my site visit, Morton Road, and the nearby residential streets within this part of Exmouth, is characterised by terraced properties which contain a mixture of single occupancy houses, houses in multiple occupation (HMOs), guest houses, hotels and properties which appear to have been converted into apartments. The appeal scheme proposes no external changes to the front elevations of the buildings and would make some alterations to the rear in order to accommodate a number of parking spaces.
7. The Council have put it to me that the change of use from a nursing home to HMO would result in an increased level of activity which would result in increased levels of noise and disturbance, and that these factors would be detrimental to the character and appearance of the surrounding area.
8. In these regards, and as described above, the appeal site is located within a residential area which is characterised by properties which have multiple occupancy uses, such as flats and existing HMOs, and therefore would be likely to exhibit similar levels of activity to that of the proposed development. The evidence indicates that the Existing Planning Permission would result in a greater level of occupancy in terms of potential residents than the appeal proposal. Furthermore, by reason of the additional movements of care staff and visitors that would be generated from the site's use as a nursing home, the level of activity with the use of the site as an HMO, would not likely be significantly greater than its current existing permitted use, or the use as permitted under the Existing Planning Permission.
9. Consequently, the appeal scheme would reflect the likely levels of occupancy and intensity of use which characterises the surrounding area and therefore, in combination with no proposed changes to the appearance of the front elevations of the buildings, the appeal scheme would not have a detrimental impact on the character and appearance of the surrounding residential area.
10. It has been further put to me that the increased level of activity associated with the proposed HMO would result in noise and disturbance to the detriment of local residents and businesses. In this regard, for the above reasons and in the absence of any substantive evidence to the contrary, I conclude that the level of activity arising from the proposed development would not be significantly greater than that experienced in relation to the use of the appeal property as a nursing home or as a group of apartments. I therefore conclude that the appeal scheme would not be likely to result in any significant increase in noise and disturbance to the detriment of local residents.
11. Further to the above, there is public concern about the potential for the appeal scheme to result in anti-social behaviour which would be detrimental to the amenity of nearby residents and would adversely affect the viability of local businesses.
12. However, there is no objective evidence before me to indicate that this appeal proposal would increase the risk of anti-social behaviour. The proposed

¹ Local Planning Authority Reference: 16/2258/MFUL

development would be the subject of an HMO Licence and, in my view, anti-social behaviour problems are not unique to HMOs and could equally apply to other forms of residential occupation. Behaviours of this type are factors related to the particular occupants of the property and not the use, which is the consideration in this appeal. Furthermore, there are other measures outside of planning controls available to tackle criminal and disruptive behaviour. Therefore, there is no evidence before me to indicate that this proposal alone, or indeed in combination with other HMOs in the area, will exacerbate the situation in relation to anti-social behaviour.

13. Whilst I acknowledge the reference to comments placed on the Trip Advisor website, I have not been provided with a copy of these comments, nor any further details such as the date the comments were received. However, it does appear from the information before me that comments made on that website relate to the presence of another HMO within Exmouth. For the reasons given above, anti-social behaviour and noise disturbance is not unique to HMOs, and issues arising from another development may not necessarily be replicated in relation to the appeal scheme.
14. In summary of the above, I find that the appeal proposal would not have a harmful or adverse impact on the character and appearance of the surrounding area and would not be detrimental to the living conditions of nearby residents. The proposed development would therefore comply with Policy D1 of the East Devon Local Plan 2013 -2031 (the Local Plan) which, amongst other things, seeks to ensure development reflects the character and appearance of the surrounding area and would not have an adverse effect on the amenity of nearby residents. Furthermore, the proposal would provide adequate levels of storage for bicycles and refuse, and would be located close to a range of services and facilities. In combination with the above, the proposal would therefore also accord with Policy H3 of the Local Plan.

Other Matters

15. The site is within the influence of the Exe Estuary Special Protection Area and the East Devon Pebblebed Heaths Special Area of Conservation (the SPA/SAC). The information indicates that the SPA/SAC is well frequented by the public, and residents of the proposed dwellings would be likely to visit. The evidence before me is that the proposal, particularly when combined with other development in the area, would have a significant effect on this habitats site through increased disturbance through recreational activity.
16. The Council has adopted the South-East Devon European Site Mitigation Strategy, and this sets out a costed approach to infrastructure and other projects, with a payment per additional dwelling, to mitigate the recreational impacts.
17. The Appellant has submitted a signed and dated Undertaking under section 111 of the Local Government Act 1972. I understand that Natural England are satisfied with this approach. I am content, based on the evidence before me, that the financial contribution would be spent on the identified projects and therefore the mitigation would be secured. I therefore find, in undertaking my Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), that the proposal, as mitigated, would not, either alone or in combination with other projects, adversely affect the integrity of the SPA/SAC in this instance.

18. Concerns have been raised regarding the adequacy of parking provision in relation to the appeal scheme, and that the proposal would lead to parking congestion within the surrounding area. However, in this instance I consider that the parking arrangements are sufficient considering that the site is within walking distance of a range of services, facilities and public transport connections. Furthermore, the appeal proposal would provide four parking spaces to the rear of the appeal property and would provide an area for bicycle storage. I therefore consider that the appeal proposal would not have a harmful effect on local parking.
19. Additional concerns have been raised by interested parties in relation to the potential increase of pressure on local services, in particular healthcare services, arising from the appeal scheme. However, there is no firm evidence before me to suggest that there is insufficient capacity in local services to meet the needs generated by the proposed development.

Conditions

20. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord.
21. A condition is necessary for the implementation of a Flood Evacuation Procedure to ensure the health and safety of occupants of the premises, and it is also necessary to impose a condition relating to a scheme which demonstrates that the risk of flood damage is minimised. In the interest of living conditions of nearby residents and occupants at the proposed development, I have included a condition requiring that parking spaces, refuse storage and bicycle storage facilities be provided prior to occupation.
22. Where necessary, and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusions

23. For the reasons given above, the appeal succeeds and planning permission granted subject to conditions identified.

A Spencer-Peet

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
- 2) The development hereby approved shall in all respects accord strictly with drawing number Location Plan 7876-LPA received by the Local Planning Authority on 19 February 2019 and drawing number Proposed Elevation 7876-04 Rev A received by the Local Planning Authority on 12 June 2019 and drawing number Proposed Floor Plans 7876-03 Rev E received by the Local Planning Authority on 6 August 2019.
- 3) No development approved by this permission shall be commenced on the ground floor until a scheme to minimise flood damage to the proposed development by utilising flood resilient construction techniques to an appropriate level has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and maintained in accordance with the approved details.
- 4) No development approved by this permission shall be brought into use until a flood warning and evacuation procedure has been submitted to and agreed in writing by the Local Planning Authority. The approved warning and evacuation procedure shall be adhered to at all times.
- 5) Prior to first occupation of the House in Multiple Occupation hereby approved, the car parking spaces, bin stores and secure cycle storage shall be provided in accordance with the details shown on drawing number 7876-03 Rev E. These areas shall thereafter be retained for these uses in perpetuity unless otherwise agreed in writing by the Local Planning Authority.