



Appeal Decision

Site visit made on 24 February 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2020

Appeal Ref: APP/W1715/W/19/3242351

1 Robin Square, Eastleigh S050 9JZ

- 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/19/86031, dated 9 July 2019, was refused by notice dated 3 September 2019.
 - The development proposed is described as change of use from C4 HMO to Sui Generis 8-bedroom HMO. The property now has eight bedrooms, only up to six are currently in use.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from C4 HMO to Sui Generis 8-bedroom HMO at 1 Robin Square, Eastleigh S050 9JZ in accordance with the terms of the application, Ref F/19/86031, dated 9 July 2019, and 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 implemented in accordance with the following approved plans: Location plan (Council ref: LOC 01); Block plan (dated 8/7/2019, Council ref: BLOC 01); Site layout plan (titled 1 Robin Square parking plan, dated 07/07/2019, Rev 07/07/2019); Parking plan (titled 1 Robin Square parking plan, dated 07/07/2019, Rev 17/07/2019, Council ref: 1RS parking plan); and Elevations, floor and roof plan (titled 1 Robin Square, Eastleigh, dated 08/05/2015, Council ref: PR 01).
 - 3) The development hereby permitted shall not be occupied by more than twelve occupants at any one time.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, I have omitted the second sentence from the description in the formal decision because such words are not acts of development.
3. The Council's decision notice refers to Policy DM1 of the emerging Eastleigh Borough Local Plan 2016-2036 (eEBLP). Although it has been submitted for independent examination, it has not been adopted and I have limited evidence concerning its current status. Consequently, I afford it limited weight in my consideration of this appeal.

4. An amended parking plan was submitted with the appeal. In considering whether to accept it, I have had regard to the 'Wheatcroft Principles', including in relation to whether it materially alters the nature of an application and whether the amendments indicate that it is in substance different from that for which the application was made. I am also mindful that accepting amendments at appeal stage could potentially prejudice the interests of interested parties by depriving them of the opportunity to comment on the amendments.
5. The amended plan removes the additional proposed parking spaces that formed part of the planning application submitted to the Council and which is now the subject of this appeal. This would materially alter the nature of the appeal proposal, which would be different in substance from that for which the application was made. I also cannot be certain that accepting amendments at this stage would not deprive parties of the opportunity to comment and who may have commented if the amended plan formed part of the original planning application which the Council consulted on. Taking the amended plans into account could therefore prejudice other parties' interests.
6. The Planning Inspectorate's Procedural Guide (Planning Appeals – England, 2020) sets out that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. Consequently, and for the above reasons, I have determined the appeal on the basis of the proposed development determined by the Council and have not taken into account the amended plan.

Main Issues

7. The main issues are:
 - Whether the proposed development would harm the character and appearance of the surrounding area, with particular regard to the extent of car parking on the site; and
 - Whether the living conditions of the occupiers of the proposed development would be acceptable, with particular regard to internal communal space.

Reasons

Character and appearance

8. The appeal site contains a semi-detached property on a corner of Robin Square. Existing parking on the site is situated to the side and rear of the property. The front garden area consists of grass and gravel behind a dwarf wall. The surrounding area has a residential character. The majority of properties in Robin Square contain off-street parking, with several driveways/areas of hardstanding extending across the full frontage of the plot.
9. The provision of four additional parking spaces to the front would result in a significant amount of hard-surfaced parking on the site. However, there would be a reasonable degree of separation between the existing and the proposed parking spaces, while boundary fencing around the rear parking area would provide further visual and physical separation. The location of each and the boundary treatment means that the proposed and existing parking areas would also not be seen together except from limited vantage points. Accordingly, the

parking areas on the plot would appear as separate features which would not dominate the site or the public realm.

10. An area of front garden would remain on the corner of the site which fronts the highway. Part of the dwarf wall would also be retained to the front and side of the plot. The proposed parking area to the front would therefore not appear as an incongruous or insensitive feature that would be out of character with surrounding plots and the pattern of development within the locality.
11. With an increase in the number of occupiers as well as an increase in parking spaces, the appeal proposal would result in a more intensive use of the property and site as a whole. However, with the site and locality retaining its residential character, the intensification of the use of the property and site would not of itself cause harm to the character of the area.
12. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the surrounding area, with particular regard to the extent of car parking on the site. I therefore find that it accords with Policy 59.BE of the Eastleigh Borough Local Plan Review (2001-2011) (EBLPR). This sets out that development proposals will be supported where, amongst other aspects, they take account of the context of the site including the character and appearance of the locality and are appropriate in layout, design and siting.
13. Policy DM1 of the eEBLP appears to have broadly similar aims to those in the above policy. The proposal would therefore also be consistent with this policy. It would also be consistent with the Council's Quality Spaces Supplementary Planning Document (SPD) in relation to, amongst other aspects, its advice that car parking should not visually dominate the public realm and development taking account of existing local character.

Living conditions

14. The appeal proposal would increase the permitted number of bedrooms within the property from six to eight. Taking into account that some of the proposed bedrooms would be suitable for use by two people, the evidence before me indicates that the total number of occupants that could satisfactorily reside in the house in multiple occupation (HMO) would be 12.
15. The main communal space within the property would consist of an open-plan kitchen and dining/lounge area. The available evidence indicates that there would be sufficient kitchen facilities for up to 12 occupants, as confirmed by the Council's licencing department, and that it would be compliant with the Council's HMO licencing pack. Although the area is not of a significant size, I observed on my site visit that it was of a high quality and would provide useable communal space.
16. My attention has been drawn to the 'Technical housing standards – nationally described space standard'. However, that relates to dwellings whereas the appeal property would be an HMO. The Council's reference to the internal space required for a single-storey one-person dwelling is therefore not directly relevant to the consideration of communal floor space within an HMO. Accordingly, it does not lead me to a different conclusion.
17. Taking into account the size, layout and quality of the kitchen and dining/lounge area, I consider that the proposed development would not give

rise to a poor quality or cramped living environment. Accordingly, and for the above reasons, I conclude that the living conditions of the occupiers of the proposed development would be acceptable, with particular regard to internal communal space. I therefore find that it accords with EBLPR Policy 59.BE which, amongst other aspects, sets out that development proposals will be supported where the layout is appropriate. The proposal would also be consistent with Policy DM1 of the eEBLP and the Council's Quality Spaces SPD. Amongst other things, they require development to not have an unacceptable impact on residential amenities of new and existing residents and set out that there should be sufficient internal space for residents to use comfortably and to support a practical quality of home life for the intended number of residents.

Other matters

18. I note the evidence submitted with the appeal relating to parking demand on the site and in the surrounding area. However, the Council did not allege that the level of on-site parking – as proposed in the plans originally submitted with the planning application and which I have based my decision on – was inadequate and that the appeal proposal would harm highway safety. There is little substantive evidence to indicate otherwise. Accordingly, I have restricted my consideration to the alleged harm identified by the Council.

Conclusion and Conditions

19. For the above reasons, the appeal is allowed.
20. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. I have also imposed a condition limiting the number of occupants residing at the property to 12. This is reasonable and necessary because the available evidence indicates that the proposed HMO would be sufficient for up to 12 occupants. Accordingly, I have considered the effects of the proposed development to be acceptable on the basis of a maximum of 12 occupants rather than the eight occupant limit suggested by the Council.

Tobias Gethin

INSPECTOR