



Appeal Decision

Site visit made on 10 February 2020

by Thomas Shields MA DipURP MRTPI

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

Decision date: 16 March 2020

Appeal Ref: APP/V1505/C/19/3236230

9 Grove Avenue, Langdon Hills, Basildon, SS16 6HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
 - The appeal is made by Mr Mohammad Mir-Tahmasebi against an enforcement notice issued by the Basildon Borough Council.
 - The enforcement notice was issued on 30 July 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to use as a large (sui generis) house in multiple occupation (HMO).
 - The requirements of the notice are:
 - (i) Cease the use of the land as a large (sui generis) house in multiple occupation (HMO).
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

The appeal on ground (a)/deemed application for planning permission

Main Issue

2. The main issue in this appeal is the effect of the development on highway safety and efficiency.

Reasons

3. The appeal property, No. 9 Grove Avenue, is a large detached dwellinghouse with integral double garage to the side. The whole of the frontage is hard surfaced providing a driveway and parking area.
4. An earlier appeal (APP/V1505/W/18/3210534) against refusal of planning permission for the proposed use was dismissed in 2019. The parking layout plan for No. 9 in that appeal showed 6 spaces (2 in the garage and 4 on the forecourt). Although the available area for parking within the property remains unchanged the appellant argues in this appeal that it could provide 8 parking spaces (2 in the garage and 6 on the forecourt). The appellant suggests this would be sufficient if planning permission for the HMO were limited by a planning condition to no more than 10 occupiers. I have considered the appeal on this basis and also taking into account the fact that the property already operates as a 6-person HMO.

5. The road layout in the locality of No. 9 is tightly knit and narrow in places. In this context, although there are no street parking restrictions, I consider there is very limited scope for on-street parking without it resulting in difficulties; both for drivers negotiating the road layout, and for pedestrians resulting from obstructions by vehicles parking on pavements.
6. While I saw that it would be possible to park 8 vehicles within the property, such a configuration would result in the two garage spaces being blocked by 2 vehicles on the forecourt. Hence, such a parking arrangement would require a considerable amount of vehicle shuffling movements to provide for all vehicles. In my view that would not be a realistic proposition. On a practical day-to-day basis I consider that there is only sufficient room for 6 vehicles in total.
7. I accept that No.9 is located within reasonable walking and cycling distances from public transport links. I also accept that the property was built as a 6 bedroom dwellinghouse, and that a large family occupying the property could between them have a correspondingly high number of vehicles. However, notwithstanding these factors, HMOs are capable of producing even higher parking demands; resulting from each independent occupier's vehicle together with each occupier's likely visitors to a property. In this context an increase to 10 occupiers would be very significant in terms of inadequate parking capacity on the site and the likely increase in risk to highway safety. The appellant's submitted data records no accidents during No. 9's use as a 10 person HMO. However, that does not negate or remove the increased risk to highway safety I have identified, and which would continue indefinitely if the appeal were allowed.
8. I acknowledge that the Highway Authority did not object to the proposed use and that the Council's adopted parking standards do not specifically refer to HMOs. However, my own observations regarding the likely adverse effect of the development on other drivers and pedestrians is consistent with the findings and conclusions of the earlier appeal Decision, and is also echoed in some of the views expressed by third party objectors who live nearby.

Other matters

9. As set out earlier the main issue in this appeal is the effect of the development on highway safety and efficiency. Accordingly, I have not taken account of unrelated concerns raised in some of the third party objections.

Conclusion

10. For all these reasons I conclude that the proposed development would be harmful to highway safety, conflicting with Policy BAS BE12 of the Basildon District Local Plan Saved Policies (2007) and Policy T7 of the Council's emerging Local Plan which, taken together, seek to prevent traffic danger and congestion and provide safe and sustainable access. It would also conflict with paragraph 109 of the National Planning Policy Framework (2019) which indicates that development proposals should be refused if there would be an unacceptable impact on highway safety. The appeal on ground (a) therefore fails.

Thomas Shields

INSPECTOR