



Appeal Decision

Site visit made on 23 October 2020

by A Thompson BSc BTP MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 29th December 2020

Appeal Ref: APP/L2250/W/20/3252431

2 Martello Road, Folkestone, CT20 1PF

- 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 Red Giraffe Property against the decision of Folkestone & Hythe District Council.
 - The application Ref Y19/0965/FH, dated 19 August 2019, was refused by notice dated 27 November 2019.
 - The development proposed is change of use from dwellinghouse to 7-bed HMO (House in Multiple Occupation).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since planning permission was refused the appeal property has been converted into a 6-resident HMO, through the exercise of permitted development rights¹.
3. The Places and Policies Local Plan (PPLP) was adopted on 16 September 2020 and I have therefore taken this into account and accorded Policies HB13 & T2 of the PPLP, which are quoted in the Council's decision notice, appropriate weight in respect of this appeal. I note that following the adoption of the PPLP, the Shepway District Local Plan Review (the Review) is superseded and therefore Policies SD1 & TR12 of that plan, which are also quoted in the Council's decision notice, are no longer relevant.
4. In addition, on my site visit, I noted a statutory notice affixed to a lamppost advising that Kent County Council intended to extend the Bellevue Street Area Parking Zone to include a number of other roads, including Martello Road and The Tram Road. The Order was due to come into effect from 26 October 2020.
5. The main parties in this appeal have been given the opportunity to comment on the impact of the changes in the development plan and the extension of the area parking zone in relation to the determination of this appeal.

Main Issues

6. The main issues are the effect of the development on:
 - (a) the living conditions of neighbouring residents with particular reference to noise and disturbance;

¹ The Town and Country Planning (General Permitted Development)(England) Order 2015 – as amended

- (b) the character and appearance of the street scene; and
- (c) highway safety with particular reference to whether there is adequate availability of on-street parking.

Reasons

(a) Living conditions

7. My attention has been drawn to two Government reports regarding HMO's, but the reports themselves have not been submitted. I agree that there are non-planning mechanisms to control any anti-social behaviour within HMOs. Any evidence regarding the behaviour of current or past tenants in the existing 6 resident HMO, or steps taken to address any concerns that were raised, is therefore not of relevance, or weight, in this decision.
8. However, the limited extracts of the reports before me do not substantiate the statement that HMO's create no greater nuisance than any other form of property. Even if further extracts from those reports, or other national studies, might more clearly demonstrate that the statement was generally the case, I must also have regard to the evidence from the residents of an adjoining property and a Folkestone town councillor that has been submitted about the impact of the current use of the appeal property as a 6 resident HMO on residential amenity.
9. The appeal property sits within a row of similar terraced houses. Although before conversion the property had 5 bedrooms, the individual rooms are generally quite small and the plot the property occupies is relatively narrow and deep. The proposed 7 bedrooms would be located on each of the three floors of the house and all bedrooms would share a party wall with one or both of the adjoining properties. Similarly, the rear paved garden area available would be small and so the opportunity for physical separation of occupants of that area from adjoining gardens and properties would be limited.
10. HMOs may have similar levels of overall occupancy, in terms of the total number of inhabitants, as a single dwelling house. However, HMOs typically increase the density of occupation because each bedroom is let to an independent tenant. Each tenant may have different friends and lifestyles, resulting in movements, noise and disturbance at different times of the day and night in stark contrast with that typically associated with a single-family dwelling.
11. The evidence from the residents in an adjoining property and the town councillor about the existing adverse impact on the residential amenity of neighbouring residents of the current 6-resident HMO, identifies the adverse impact caused by the provision of 6 separate bedrooms across all three floors of the property in terms of substantially increased levels of noise and disturbance, both during the day and at night.
12. This evidence serves to reinforce my view that conversion of the appeal property to a 7 bed HMO would have a significant harmful impact on residential amenity and living conditions of neighbours in terms of noise and disturbance because of the limited scale of the property, the provision of bedrooms throughout most parts of the building and on every floor and the close proximity of the appeal property to neighbouring properties.

13. The existing use of the appeal property as a 6-resident HMO means that the impact of the current use on the living conditions of the neighbouring residents is a relevant material consideration in this case. I find that the evidence suggests that the current HMO use already has a significantly adverse impact on the living conditions of neighbouring residents, because of the scale and layout of the appeal property and its proximity to the adjoining properties. The proposed expansion of the HMO to a 7 bed HMO may only have a limited additional impact over the current use, but this would be likely to exacerbate the significant harm to the living conditions of neighbouring residents already being experienced.
14. I note the argument by the appellant that the local authority has control over potential noise nuisance between properties by virtue of building regulations², but there is no substantive evidence on this issue before me in relation to the appeal property, and accordingly I attach this matter very limited weight.
15. Similarly, I find the argument that the property would be occupied by young professionals to be of limited weight as it would not be possible in planning terms to control the type of tenant given there is no distinction between professional and non-professional occupier accommodation in the planning legislation.
16. In conclusion on this first issue, I find that the proposed development would have a significant adverse impact on the living conditions of neighbouring residents. Consequently, the proposal would conflict with Policy HB13 of the newly adopted PPLP, which amongst other things, seeks to resist HMO development which would have an unacceptably harmful impact on residential amenity caused by increased noise and disturbance.

Character and appearance

17. I will deal with the issue of car parking separately, but in terms of the impact on the character or appearance of the street scene, I note the concerns of the Council and third parties about the impact on the residential character of the area caused by an increase in both people and vehicle activity generated by a more intensive use of the property. In the case of the third parties this concern has also been informed by the impact of the existing use of the property as a 6 resident HMO.
18. It appears likely that the development would lead to an increase in activity at the appeal property, but the scale and mix of house types in the street is already quite varied and the overall density of residential development quite high. Furthermore, the appeal property is located close to the junction with Tram Road which appears to be a busy local distributor road and no physical changes are proposed to the exterior of the building.
19. I must also take into account that the appeal property is already in use as a 6 resident HMO, so the difference in impact between the proposed 7 bed HMO and the current use would be likely to be limited.
20. Taking these factors together I find that, although the development may result in some impact on the character and appearance of the street, it would not be of sufficient scale to constitute an unacceptably harmful impact and accordingly I do not consider that the development would conflict with Policy HB13 of the

² Approved document E: Resistance to the passage of sound

PPLP in terms of its impact on the character and appearance of the street scene or neighbourhood.

Car Parking provision

21. The development would make no off-street or dedicated parking provision. Policy HB13 requires that in such circumstances the applicant must provide a parking survey, undertaken by an independent technical consultant, in accordance with the Lambeth methodology to demonstrate that adequate on-street parking capacity will remain available once a proposal is completed and occupied. Policy T2 of the PPLP includes the same requirement to undertake a parking survey to demonstrate that appropriate parking provision would be available.
22. A parking survey has been submitted and this demonstrates that there appears to be substantial parking capacity a short distance from the appeal property along Tram Road. The findings of the survey are strongly disputed by the third parties and the appellant accepts that the survey was undertaken during the lockdown period. But neither the third parties nor the Council have presented any substantive alternative evidence, nor submitted evidence that demonstrates the survey undertaken by the appellant does not accord with the Lambeth methodology.
23. Given that the appellant has met the survey requirements of policies HB13 and T2 and demonstrated that adequate on street parking capacity would remain once the proposal is completed, I find that there would be no harm to road safety as a result of inadequate provision for on street parking and thus no conflict with Policy HB13 or Policy T2 on these grounds.
24. In October 2020 the Bellevue Street Area Parking Zone was extended to include a number of roads, including Martello Road and The Tram Road. None of the parties have submitted any comments on the impact of this change. Given that this change does not appear to raise substantive new issues, my findings on car parking provision are unchanged.

Conclusion

25. In the light of my conclusion regarding the impact of the development on the living conditions of neighbouring residents and notwithstanding my conclusions on the other main issues, I conclude the appeal should be dismissed for the reasons set out above.

Anthony Thompson

INSPECTOR