



Appeal Decision

Site visit made on 28 September 2021

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2021

Appeal Ref: APP/A2280/W/20/3252697

513 Canterbury Street, Gillingham, Medway ME7 5LG

- 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 Acumen Properties against the decision of The Medway Council.
 - The application Ref MC/19/2025, dated 1 October 2019, was refused by notice dated 27 February 2020.
 - The development is the conversion of existing dwelling house (C3) to an 8 Bedroom house of multiple occupation (HMO).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The conversion of the property has taken place and the appeal has been considered on this basis. The wording of the original application referred to retrospective, but this does not describe the built nature of the scheme. Thus, such wording has been omitted from the above description.
3. The site visit was carried out unaccompanied and further information in the form of photographs was submitted to show the inside of the top floor accommodation within the HMO. Based on the submitted plans and this information, there was no requirement to undertake a further site visit of the accommodation.

Main Issues

4. The main issues are (a) whether the location of the HMO is acceptable, having regard to local and national planning policy, and (b) the living conditions of the occupiers of a top floor HMO room, having regard to outlook and light.

Reasons

Location

5. The appeal site comprises an end of terrace two storey dwelling which has accommodation in the roof above. It is adjacent to a surgery building at the corner of Canterbury Street and St John's Road. This neighbouring building has an adjacent extension whilst the neighbouring attached terraced dwelling has been converted into two flats. Beyond the corner of the two roads, there is a local supermarket in Canterbury Street whilst opposite the appeal site, there is a nursing home. There are licensed HMOs at 517 and 372 Canterbury

Street. A vehicle driving school use exists at 374 Canterbury Street. On adjacent side streets off Canterbury Street, there are mainly terraced dwellings.

6. Under the Medway Local Plan (LP) 2003, Policy H7 covers HMOs and states that dwellings intended for multiple occupation will be permitted subject to certain criteria. In this regard, the property must be in an area with a predominantly mixed-use or commercial character. This part of Canterbury Street has a mixed use but the use of the word 'predominantly' strongly indicates that this characteristic has to be a strong quality.
7. In this regard, most uses are residential, either flats or houses, on this section of Canterbury Street. Based on the Council's undisputed evidence, Nos 515, 519-25 (odd numbers) and 364 to 370 (even numbers) Canterbury Street are dwellings. There is a further significant residential use opposite the site, the residential care home. Additionally, at the junctions of Canterbury Street with St John's Road and Eva Road, there are mainly dwellings on the side streets which back onto the site. On this basis, the area surrounding the appeal site is not predominantly mixed use.
8. Given that the appeal property is not detached, there is further conflict with a criterion of LP Policy H7 which indicates that relevant nearby or adjoining properties should be in multiple occupation or a non-residential use for this proposed HMO use. In this regard, the adjoining surgery is a non-residential use but the remaining adjoining properties to the side and rear are residential. Beyond this, most nearby properties are also residential. Furthermore, it has not been demonstrated that the property is too large to reasonably expect its occupation by a single household under the last criterion of LP Policy H7.
9. The property is located on a busy road where there is significant noise and activity, and the HMO has been in operation without any issues of noise and disturbance being reported to the Council. However, this does not guarantee no such issues in the future, as circumstances can change. The age of the terrace is considerable, and it has not been proven that standards of internal noise insulation would meet modern requirements. The appeal scheme results in more residents capable of generating noise and disturbance than an HMO with six rooms. The explanatory text of LP Policy H7 details that HMOs will normally be expected to be detached properties to avoid adverse effects on nearby residences.
10. On this basis, the scheme does not satisfy the remaining criterion of LP Policy H7 because the property is located where increased activity could be detrimental to local amenity. Additionally, the scheme conflicts with LP Policy BNE2 which requires protection of the amenities enjoyed by nearby and adjacent properties, having regard to activity levels.
11. The proposal would have no designated vehicle parking, with restrictions prohibiting parking on Canterbury Street. Occupiers would have to park their vehicles on surrounding streets, mainly off Canterbury Street. These streets are subject to a residential permit scheme. The appellant, through their management company and occupiers' contracts, would seek to ensure no permits are applied for but there can be no guarantee of this, as circumstances can change. However, the HMO would be likely to be for small households and the location of the development with good access to facilities, services and public transport would indicate a low demand for use of a vehicle by occupiers.

Indeed, none of the current occupants have access to a private motor vehicle. On this basis, any added inconvenience for local residents, in not being able to park their vehicles near to their properties, would be negligible.

12. Externally, there is no change in the external appearance of the appeal property. There is a small increase in people coming and going to an 8 room HMO compared to a 6 room HMO but within the context of a busy main road, this is not significant. The appellant has indicated that the property has been in previous use as a 6 room HMO. There would be negligible vehicular generation associated with the scheme. Matters of unsightliness of litter and refuse should be a matter for the management company of the property. Accordingly, there is no harm to the character and appearance of the area. Under LP Policy T13, development proposals will be expected to make vehicle parking provision in accordance with an adopted standard. The standard does not detail parking requirements for HMOs and thus, there is no conflict with this policy.
13. Nevertheless, the appeal property is not be an acceptable location for this HMO because it is not within a predominantly mixed use location, relevant nearby or adjoining properties are not in multiple occupation or non-residential use, and it has not been demonstrated that increased activity would not be detrimental to local amenity. Accordingly, the scheme conflicts with LP Policies H7 and BNE2.

Living conditions

14. Within the HMO, a second floor room is contained partially within the main roof of the building. Within the roof, there is a small rooflight close to the top of the staircase accessing this room but this does not provide outlook to occupants given its position. The remaining larger rooflight is positioned centrally within the room but its lower edge is approximately 1.5m above the internal floor level.
15. The only non-bedroom living space within the HMO is a ground floor kitchen which would serve all the occupants. Therefore, occupants would use their rooms for living activity, such as relaxation, as well as sleeping. The height of the main roof light is at high level significantly restricting outlook for persons when sitting down within the room. The only appreciation of the outdoor environment would be when the occupant is walking around or making a conscious effort to look out of the rooflight.
16. The Council's Private Sector Housing section has inspected the property and issued an HMO licence suitable for occupation by 8 households. However, the scheme has to be judged on its planning merits and National Planning Policy Framework requires a high standard of amenity for existing and future users and such a scheme fails to achieve this for the reasons indicated. It has been suggested that physical alterations could be made to the rooflights but details of this are not before me to consider and give weight to.
17. The plans and photographs demonstrate acceptable light into the room from the rooflights but nevertheless the issue of outlook remains. LP Policy BNE2 does not cover outlook issues but the scheme results in unduly restricted outlook for the occupants of the roof top room detrimental to their living conditions in conflict with national policy.

Planning balance

18. Within a one-mile radius, a significant number of HMO licences, including for 7 or more households, have been granted. However, inevitably circumstances will differ between schemes dependent upon location and nature, and every planning proposal has to be considered on its particular planning merits.
19. A considerable amount of capital has been spent to provide long term, sustainable and affordable accommodation for the local community. The scheme provides accommodation for residents in a location which has good access to services and facilities by non-private vehicle means.
20. However, the location of the appeal HMO is unacceptable under LP Policies H7 and BNE2, and there would be conflict with the development plan taken as a whole. There would also be harm to existing and future occupants of the top floor room, having regard to outlook, in conflict with the Framework. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore, planning permission should be refused.

Conclusion

21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR