
Appeal Decision

Site visit made on 14 October 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2021

Appeal Ref: APP/U2615/W/21/3269502

Rhonadean, 110-111 Wellesley Road, Great Yarmouth, NR30 2AR

- 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 Mrs Barbara Wheeler against the decision of Great Yarmouth Borough Council.
 - The application Ref. 06/20/0426/CU dated 4 August 2020, was refused by notice dated 1 December 2020.
 - The development proposed is described as: Retrospective permission for change of use from guest house to house in multiple occupation.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. There have been 2 previous appeals in respect of this property, both relating to a change of use from guest house to house in multiple occupation (HMO). The latest of these, reference 3239810, was issued in May 2020. That appeal concerned a proposal for 13 bedrooms. The current appeal proposal is for 12 bedrooms.

Main Issues

3. The main issues in the case are: i) the suitability of the location of the site for a house in multiple occupation (HMO); and ii) the living conditions of the occupants of the appeal property, in respect of internal space provision.

Reasons

The development plan

4. The starting point is the development plan. Policy HOU23 of the Great Yarmouth Borough Wide Local Plan (2001) (LP) provides the guidance relevant to the use of properties as HMOs. Its criteria, as relevant here, are to seek to ensure: (B) that the amenities of the locality would not be significantly adversely affected; (E) that there is no property used as a single unit of family accommodation directly adjoining the proposed development; (F) that there would be no significant detriment to the occupiers of adjoining or neighbouring properties; and (H) that the building is 3 or more storeys high, or more than 95sqm floor area. I note that previous appeal decisions relating to HMO use of the site have found compliance with this policy.

5. However, the emerging Great Yarmouth Local Plan Part 2 (LP2) has now reached the stage in its examination of consultation on modifications. I am told that there are no unresolved objections to the relevant policies and the Inspector is not seeking any modifications from the council. Thus it is at a very advanced stage. Where emerging policies have no unresolved objections, they can be afforded substantial weight. This is especially so in the case of policy for this borough since the emerging plan will have been examined against the National Planning Policy Framework (the Framework)¹, and therefore can be considered to be up-to-date with regard to government policy, whereas the LP of 2001 was adopted well before the first version of the Framework was published.
6. The appellant argues that less weight should be given to the emerging plan and its policies. However, for the reasons I have given above, I consider that it is the policies of the emerging LP2 that should mainly determine the decision in this case. It is a fact that during the course of the appeal, the current situation is materially changed to what it was at the time of the application, due to the progress that has been made on the examination of LP2.
7. LP2 Policy H12 of will replace LP Policy HOU23. Whilst this policy is generally permissive of HMOs, the second paragraph states that *"New Houses in Multiple Occupation (HMOs) will not be permitted in the designated 'Seafront Area' and 'Back of Seafront Improvement Area' due to the need to protect the character and nature of these areas"*. Other elements of the policy that should be noted are b. *"the daily functional uses must not unacceptably harm the amenity of adjoining and nearby residents through visual and/or noisy intrusion, and loss of privacy"*; and *"Any HMO proposals will need to meet (but ideally exceed) the minimum room dimensions required to secure a licence from the Council's Environmental Services section under the Housing Act 2004"*
8. The other policy of the LP2 that is referred to in the refusal reasons is GY7: Great Yarmouth Back of Seafront Improvement Area. The most important element of this policy is j. *"The development of further Houses in Multiple Occupation (and commensurate uses) within this area will be resisted, and such uses steered to alternative locations."* I note that this 'resistance' in GY7 is less emphatic than the 'will not be permitted' in H12, but I consider it would be unnecessary use of semantics to seek to define any different intention between the two. For the reasons I have given in paragraph 5 above, this appeal must be primarily judged against the policies of LP2.

The suitability of the location of the site for an HMO

9. Rhonadean occupies a corner plot at the junction of Wellesley Road with Paget Road. The site is within a secondary holiday accommodation area, identified as 'The Great Yarmouth Back of Seafront Improvement Area' under policy GY7, and is within the Seafront Conservation Area. The property is surrounded by flats and guest houses to the south and west although there are other HMOs in the area such as at 108 Wellesley Road. The site is located close to the town centre and within walking distance of shops, services and public transport. I am told that the property has been used as an HMO with up to 18 bedrooms without planning permission. The accommodation is proposed to be laid out

¹ Due to the date of submission of the Plan for examination, its examination will have been carried out under the terms of the February 2019 version of the Framework.

with a 3 bedroom basement flat for the property owners, and 12 HMO bedrooms in the 2 storeys above.

10. The aim of policy GY7 for the Back of Seafront Improvement Area is "a. *improve the character, amenity and physical condition of properties by encouraging existing and new uses and investment which strengthens its positive characteristics; b. improve the street scene through environment improvements and the encouragement of refurbishment and maintenance of properties; and c. avoid uses that typically give rise to disturbance and loss of amenity*" (d. is about enforcement). It is further explained by the council that this area formerly contained many of the seafront's guesthouses, bed and breakfast accommodation and hotels, but as the demand for holiday accommodation has changed, many of the former holiday accommodation units have become HMOs, leading to complaints and generally more negative perceptions of the area. Consequently, there is a need to manage the process of urban renewal in this area carefully.
11. The appellant points out that alterations have been made to the layout of the accommodation, and a reduction in the number of bedrooms, in an attempt to meet earlier objections. It is clear to me that strenuous efforts have gone into trying to make the application acceptable under planning policy, following pre-application consultation. It is also the appellant's case that this change of use would enlarge the amount of residential accommodation in the borough, and in particular provide the social benefit of low cost accommodation. In addition, it is contended that the proposed HMO would not create any more significant impact on the area than a guest house, or apartments that are the council's preferred development types.
12. Having viewed the area around the appeal site, since the building remains in its previous physical form, in an HMO use there is no impact on the architectural character and appearance of the area. However, the use as an HMO has characteristics that would bring features that I consider would be out of character with the larger flat conversions and tourist accommodation in the area. The appeal property, like the others in the vicinity, has minimal outdoor space within its curtilage. As a result, there are no private open areas for the occupiers of the 12 HMO bedrooms. Unlike holiday accommodation, where guests can be expected to spend most of their time away from the bedroom accommodation during their stay, HMO occupants are likely to spend much of their time in their homes or the immediate vicinity, and this situation would persist throughout the year. In addition, there is no space within the curtilage for secure cycle parking, and no off-street parking; proper provision for recycling and refuse facilities does not appear to be feasible.
13. The character of the use would change, with a clearly different pattern of coming and goings. At the time of my visit there was in fact little to indicate from the exterior that the use is at present an HMO, perhaps due to current management by the appellant who lives within the basement accommodation. However, planning permission runs with the building and management arrangements and diligence may well change over time. The council's policies are clearly aimed at protecting and enhancing the perception of the character of the area, and an HMO use, over the longer term, is likely to be inimical with this objective.

14. Since the appeal site is within a conservation area, I am required to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area. As I have already noted, the architectural style and character of the property has not changed, but enhancing the perception of the character of the area is desirable in maintaining the qualities for which the area was designated. This is an area that would certainly benefit from an uplift in its perceived character.
15. The site is in a highly sustainable location and the proposal would provide low cost residential units in larger numbers than if the property was converted into flats. Additional residential units in such a sustainable area are generally to be welcomed, and these are considerations that carry weight. Nevertheless, I can see the importance of seeking to raise the quality and character of the area, which is the aim of the council's policies. Whilst the benefits of the appeal proposal must be recognised, the policies of the soon to be adopted LP2 must carry very substantial weight. Without factors that bring over overriding benefits, the fact that the development would run completely counter to the intentions of the policies H10 and GY7 means that it is this consideration that must prevail.

The living conditions of the occupants of the appeal property, in respect of internal space provision

16. It is clear that considerable thought has been put into improving the internal layout and ensuring that every room meets the required bedroom sizes. The council acknowledge this, although it criticises the 3 smallest rooms, 2, 7 and 10 on the basis that these would be constrained by door openings, access and layout. I inspected each of these rooms, during my site visit, as well as other parts of the accommodation. In my opinion they offered reasonable space for single person occupancy, and had I been allowing the appeal, I would have adopted the appellant's suggestion of imposing a condition restricting these specific rooms to single occupancy only.

Conclusions

17. Whilst I have found that the individual accommodation within the existing rooms and their layout is satisfactory, and could be safeguarded by suitable conditions, the appeal proposal is clearly at odds with the aims of the council for this area as expressed in the emerging LP2. For the reasons that I have given in paragraph 5 above, and as I concluded in paragraph 8, this appeal must be decided on the basis of policies H12 and GY7 of LP2. For the reasons I have set out in paragraph 15, balancing the various matters that impinge on my decision, my overall conclusion is that the appeal must be dismissed.

Terrence Kemmann-Lane

INSPECTOR