



Appeal Decision

Site visit made on 15 October 2021

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2021

Appeal Ref: APP/P1560/W/21/3271930

7 Victoria Street, Dovercourt, Harwick, Essex CO12 3AR.

- 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 David Beattie (Beattie Investments Ltd) against the decision of Tendring District Council.
 - The application Ref 20/01738/FUL, dated 01 December 2020, was refused by notice dated 05 March 2021.
 - The development proposed is 'Change of use from 5 bedroom C3 dwelling to a 6 bedroom C4 HMO and associated internal alterations'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original description of development '*Change of use from C3 to C4 (HMO) for six bedrooms and internal alterations*' was amended following submission of the application; I have utilised the amended description.
3. The latest iteration of the National Planning Policy Framework (the Framework) was published on 20 July 2021, after the application which is subject of this appeal was determined. Both main parties have made comments in respect of the appeal following the publication of the Framework.

Main Issues

4. The main issues are:
 - Whether the proposal would provide an adequate standard of living conditions for future occupiers of the development; particularly whether it would provide sufficient outdoor space to meet the needs of future occupiers,
 - Whether the proposal has provided a sufficient level of information relating to flood-risk; and,
 - The effect of the proposal on the wider road network and highway safety; specifically in relation to parking provision.

Reasons

Living conditions

5. The appeal site is a residential dwelling ('host building') located within a terrace. The host building abuts a pavement to the front and has a modest rear garden area of approximately 27sqm, which can be accessed via the host building or via 'Crown Lane'. Crown Lane is a narrow lane which runs to the rear of the terrace and is surrounded by buildings. The proposal seeks to change the use of the dwelling to a six-bedroom house in multiple occupation, by way of internal alteration works only. The main parties agree that the proposal would provide adequate living conditions for future occupiers, except for the provision of outdoor space. The parties disagree as to the weight to be given to saved and emerging policies, and therefore, they disagree as to the relevant policy criteria to be applied to open space provision for houses in multiple occupation.
6. The development plan comprises of the saved policies of the Tendring District Local Plan (LP), adopted 2007, and Section 1 of the Local Plan for Tendring, adopted in 2021 (LPT S1).
7. Saved policy HG10 of the LP relates to conversion of dwellings into flats or bedsits. It requires an appropriate private rear amenity area in accordance with saved policy HG9. Saved policy HG9 requires outdoor space of either 25 sqm per flat is provided communally, or 50 sqm of garden area is provided for any ground floor flat and 5 sqm per flat above. The saved policies are dated and precede the Framework, however, due weight should be given to saved policies according to their degree of consistency with the Framework. Whilst the inflexible imposition of standards would not be consistent, the saved policies broadly align with the Framework paragraph 130(f) which seeks, amongst other things, development which provides a high standard of amenity for existing and future users of that development.
8. When applied flexibly in line with the Framework, the outdoor space standard of saved policy HG9 provides useful guidance as to what might be considered necessary to meet the outdoor amenity needs of future occupiers. The proposed 27sqm total of outdoor space would fall so substantially below the suggested saved policy HG9 amount of 150sqm as to clearly indicate that the proposal would fail to provide adequate outdoor space to meet the needs of future occupiers, resulting in poor living conditions. The proposal is therefore contrary to saved policies HG9 and HG10.
9. The emerging Tendring District Local Plan 2013-2033 and Beyond (LPT S2) is a material consideration. There is little information before me regarding the level of unresolved objection to individual policies, however, the LPT S2 is at an advanced stage of preparation. Emerging policy LP11¹ relates to houses in multiple occupation and bedsits. LP11(f) requires that '*all residents of the HMO...have access to adequate space for the storage of waste and recycling bins which will be provided within the curtilage of the block*'. LP11(h) requires that '*an area of communal open space is provided that has sufficient space **and** facilities for drying clothes*' (my emphasis). The outdoor space must, therefore, be of sufficient space and, in addition, provide space for refuse storage, cycle parking and clothes drying. The outdoor space would also serve as an access to bedrooms. Such functions are not compatible in cramped close-proximity. This would be further exacerbated by the fact that the outdoor space is closely

¹ Tendring District Local Plan 2013-2033 Publication Draft June 2017

surrounded by buildings and fences, created a shadowed and poor-quality space. The proposal is therefore contrary to emerging policy LP11.

10. Whilst the same outdoor area serves an existing 5-bedroom dwelling, a 6-bedroom house in multiple occupation has potential for a greater number of occupants with different needs. The appeal site is a relatively short distance from public open space, including a beach; however, this does not overcome the proposal's failure to meet the practical needs of its future occupiers.
11. For these reasons, the proposal would provide a poor standard of living conditions for future occupiers and is contrary to the development plan, emerging policies and Framework.

Flood Risk

12. The appeal site is located within Flood Zone 2. The proposal is not supported by a specific Flood Risk Assessment, sequential test or exception test information. The Design and Access Statement for the application acknowledges that the proposal would not increase the risk of flooding elsewhere as it does not propose external changes to the host building or a basement.
13. The right information is crucial to good decision-making, particularly where formal assessments are required. Framework Paragraph 159 seeks to avoid inappropriate development in areas at risk of flooding by directing development away from those areas and by ensuring development is safe for its lifetime without increasing the risk of flooding elsewhere. Framework Paragraph 167 states that planning applications should ensure that flood risk is not increased elsewhere and, where appropriate, applications should be supported by a specific flood risk assessment. Framework Paragraph 168 states that applications for some minor development and changes of use should not be subject to sequential and exception testing but should still meet the requirements for site specific flood risk assessments in Footnote 55. Footnote 55 states '*a site-specific flood risk assessment should be provided for all development in flood zones 2 and 3*'.
14. Saved policy QL3 and emerging policy PPL1 require consideration of sequential testing for all development proposals. Requiring sequential testing for all development is not consistent with the Framework, however, considering the need for sequential testing in all proposals is. Policy PPL1 does refer specifically to the Framework. For this reason, both policies attract moderate weight.
15. The scale and type of development proposed excludes the proposal from sequential and exception testing requirements. However, there is a clear requirement for site-specific flood risk assessment. The information to be contained in such an assessment should be proportionate to the nature of the proposal.
16. Although the Appellant has considered the impact of the proposal on the risk of flooding elsewhere in general terms, the assessment has not addressed the reconfigured internal space which results in ground floor bedrooms, nor the need for external structures for refuse and secure cycle storage. As such, the flood risk information in the Design and Access Statement fails to demonstrate that the proposal would not increase flood-risk elsewhere and that the development would be appropriately flood resistant, with any residual risk

safely managed, contrary to the Framework and the broad aims of saved policy QL3 and emerging policy PPL1.

Parking

17. Third parties have raised concerns that the lack of any on-site parking provision would have an impact on the wider road network and highway safety.
18. Saved policy HG10 seeks to ensure that highway safety is not adversely affected by arrangements for off-street parking and vehicular access. Emerging policy LP11(e) seeks 1 off-street vehicle parking space per unit; a total requirement of 6 spaces for the proposal. The existing use has no off-site vehicle parking and the proposal would not increase this. Indeed, the limited external space prohibits any vehicle parking provision. The proposal would therefore conflict with saved policy HG10 and emerging policy LP11(e).
19. Nonetheless, whilst the proposal may result in additional occupants and therefore additional on-street vehicle parking, the site is well-located for access to sustainable modes of public transport. As such, any potential slight increase in cars parked on the street is unlikely to result in a significant impact on the wider road network or to have an adverse effect on highway safety. Moreover, the imposition of conditions requiring cycle parking (notwithstanding my observations about outdoor space, above), travel information packs and financial contributions would effectively mitigate any such impacts.

Other considerations- meeting local needs

20. There is a need for house in multiple occupation accommodation in the area and the proposal would make a very modest contribution towards meeting that need. However, this benefit would not justify poor standards of living conditions proposed and would not outweigh the harm identified above.

Conclusions

21. For the reasons stated above, I find that the appeal proposal is contrary to the relevant policies of the Development Plan. Material considerations do not indicate the proposal should be determined other than in accordance with the development plan. The appeal is accordingly dismissed.

Kim Langford Tejrar

INSPECTOR