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# Appeal Decision

Site visit made on 20 September 2022

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 December 2022

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**Appeal Ref: APP/U1105/W/22/3300099**

**The Old Workshop, Kerslakes Court, Honiton EX14 1FL**

- 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 Bodenham, B & H Developments against the decision of East Devon District Council.
  - The application Ref 21/1714/FUL, dated 21 June 2021, was refused by notice dated 18 March 2022.
  - The development proposed is change of use to provide 5 No. HMO letting rooms. Minor amendments to windows under planning application 13/1115/FUL as identified on the proposed plan -5418-C-11 rev 0. Reconfiguration of internal layout to suit the proposed change of use.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. It is not disputed that a previous planning permission<sup>1</sup> had been commenced. This permission related to the '*Conversion and extension of former workshop to form 2 dwellings*' and is referred to in the description of the proposal provided on the application form and in the banner heading above. However, the Council have suggested that the previous buildings on site have been demolished, and are therefore of the opinion that the planning permission is no longer capable of being carried out. It is not within the remit of this appeal against the refusal of planning permission for me to determine if a previous planning permission can lawfully be implemented.

## Main Issue

3. The main issue is whether the proposal would provide satisfactory living conditions for the future occupiers, with regard to internal space and external amenity space, outlook, light and provision of bicycle storage.

## Reasons

4. The appeal site is constrained by built development to the north, west and east and is located to the south of Honiton High Street and within the Honiton Conservation Area. The site is accessed from King Street and Kerslakes Court from the south. The development proposal seeks to provide a house in multiple occupation (HMO) consisting of 5 bedrooms of varying sizes, 2 communal bathrooms and an open plan living, dining and kitchen area.

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<sup>1</sup> 13/1115/FUL

5. The proposed bedrooms range in size from 11.55m<sup>2</sup> to 6.86m<sup>2</sup>. Whilst it is common ground between the parties that the bedroom sizes comply with the Council's requirement for granting a HMO licence, the Council have concerns that the smallest bedroom (bedroom 5) would provide a cramped space and therefore poor living conditions.
6. Neither licencing standards, nor the Nationally Described Space Standards (NDSS) are adopted planning policy within the Development Plan and therefore whilst a useful guide, I afford these standards minimal weight in my decision. However, Policy D1 of the East Devon Local Plan 2013 – 2031 (LP) does seek to ensure development does not adversely affect the living conditions of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses; and that development includes features that maintain good levels of daylight and sunlight into buildings. These requirements accord with the National Planning Policy Framework (the Framework) requirement for a high standard of amenity for existing and future occupiers.
7. Bedroom 5 also lacks wall windows but relies on two high level roof lights to provide daylight to the room. The appellant states that whilst further windows could be added, these would either face a blank wall, or overlook an adjacent property. I observed that the proposed roof lights would not be shaded by adjacent buildings, and therefore would allow sufficient daylight to enter this room. However, as the roof lights are high level, there would be no outlook available to future occupiers of the room. Consequently, combined with the small size of the room, would result in a feeling of confinement and therefore unsatisfactory living condition for future occupiers. Whilst bedroom 1 also features high level windows, these are within the wall at a height of 1.55m which whilst partially restricting outlook, would not be to such an extent as bedroom 5, and, combined with the larger room area, would allow reasonable light penetration, outlook and living condition.
8. The remaining bedrooms and communal space are of a sufficient size and benefit from windows which, although I note that in the case of the ground floor communal room will largely be shaded, I find, due to the number and size of windows, are likely to provide adequate daylight and outlook. However, this would not outweigh or deflect from the harm that I have otherwise found would be caused in respect of bedroom 5, having regard to internal living conditions.
9. I am advised that there would be around 15 square metres of outdoor space. The plans indicate that this space would be provided on the south side of the building, with the first floor of the building oversailing a large part of the space. Whilst south facing, the proximity to the neighbouring boundary treatment, which I noted to be a timber fence, and the oversailing design of the building, would result in some shading of this space. Notwithstanding, I find that the space is of a sufficient useable size to allow future occupiers use.
10. However, this modest outdoor space would also be required to accommodate bicycle storage. While there is scope to provide secure and covered cycle parking facilities adjacent to the proposed bin storage, no details have been provided to demonstrate the area required to accommodate bicycle storage. Although a planning condition could adequately require this particular information, due to the space required to securely accommodate a potential 5 bicycles given the number of bedrooms proposed, I have no certainty that

sufficient space is available within the bin storage area for cycle storage so as to avoid unacceptably compromising the already modest outdoor space available for future occupiers use.

11. Even if it is the case that there is a commenced planning permission at this site, and there is no dispute between the parties that the appearance of the proposal is similar to that permission, the commenced planning permission relates to dwellings that would be occupied differently to the appeal proposal. I conclude that aspects of this appeal proposal would result in a low standard of living conditions for future occupants. This is particularly the case in relation to Bedroom 5, which due to the in-combination effects of small size and lack of direct outlook, together with compromised outdoor communal space for all future occupiers would lead to unacceptable living conditions. The proposal would therefore conflict with LP Policy D1, which amongst other things, seeks to ensure that development does not adversely affect the amenity of future occupants and paragraph 130(f) of the Framework which requires that developments provide a high standard of amenity for its users.

### **Other Matters**

12. I note the Council has not raised any concerns in terms of wider impacts, including those on the character and appearance of the Conservation Area, and given the evidence before me, I see no reason to disagree.

### **Conclusion**

13. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

*S Harrington*

INSPECTOR