



Appeal Decision

Site visit made on 21 February 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/P1560/W/22/3303786

24A Station Road, Clacton On Sea CO15 1SX

- 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 Andrew and Melissa Wenn (on behalf of June Wenn) against the decision of Tendring District Council.
 - The application Ref 21/01850/FUL, dated 26 January 2022, was refused by notice dated 16 May 2022.
 - The development proposed is change of use from rented accommodation, family home to student accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a residential flat (Class C3) to student accommodation as a House in Multiple Occupation (Class C4) at 24A Station Road, Clacton On Sea CO15 1SX in accordance with the terms of the application, Ref 21/01850/FUL, dated 26 January 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan, block plan and floor plans.
 - 3) The House in Multiple Occupation hereby approved shall be occupied by no more than 6 people at any one time.

Procedural Matter

2. Whilst the development as described does not specifically refer to a change of use to a House in Multiple Occupation (HMO) (use class C4) the application has been assessed and refused on that basis. I also note that it is the appellants intention to obtain a HMO licence in the future should planning permission be granted. I have therefore dealt with the appeal on the basis that it is proposed to change the flat from use class C3 dwellinghouse to use class C4 HMO, whilst having regard to the fact that six students could share the flat as a single household, under use class C3(c), without the need for planning permission. I have, therefore, granted planning permission accordingly, as set out in the formal decisions above. In doing so I am satisfied that no injustice has been caused.

Main Issue

3. The main issue is the effect of the development on the proportion of bedsits and HMOs within the immediate surrounding area and the associated implications of this on the town centre.

Reasons

4. The appeal property comprises a large, six bedroom, two-storey flat, located above two retail units in a busy town centre location. The flat is currently occupied as a C3 dwellinghouse and is shared by two students.
5. The appellants propose to let the flat exclusively to students from the Tiffany Theatre College. The maximum number of students occupying the property at any one time would be six. I am advised that the Tiffany Theatre college has recently relocated to Clacton on Sea from Southend, creating a valuable asset for the town. However, students wishing to attend the college from outside of the local area must either travel long distances or stay in expensive and inappropriate accommodation, which can raise safeguarding issues for these young people.
6. As one of the appellants is an experienced teacher and former employee of the college, with close connections to it, it is proposed that she would provide constant pastoral support to students living in the proposed accommodation and to their families, to assist in ensuring the safety and wellbeing of the students.
7. As the accommodation is proposed to be let exclusively to students, it is unlikely that this would be their sole or main residence. Many students, particularly college students that may be as young as 16, frequently return to their main family home outside of term times and would vacate their student accommodation upon finishing their studies.
8. Policy LP11 of the Tendring District Local Plan 2013-2033 and beyond, Section 2 (January 2022) (the Local Plan) is, according to the supporting policy text, designed to ensure that any proposal for HMOs or bedsits does not result in an unhealthy concentration of such accommodation in any one particular area and to ensure that any HMOs or bedsits that are permitted will meet minimum standards of room size, facilities, design and layout to ensure that occupiers can enjoy decent living standards and to minimise any detrimental impacts on the physical appearance of the area. This policy contains a list of eight criteria, only one of which is in dispute.
9. The criterion in dispute seeks to ensure that the total number of existing and proposed HMO tenancy units and bedsits within a 100-metre radius of the property or site in question, does not exceed 10% of all residential accommodation within that 100m radius zone.
10. Neither of the main parties has provided me with sufficiently robust evidence of the total number of residential properties in the area or of those in use as bedsits and HMOs, to make a fair and accurate calculation. Whilst I have been provided with a plan identifying the 100m radius from the site, this does not identify the location of HMOs, bedsits or other forms of residential accommodation in relation to the position of the appeal site. I have also been provided with a list of 4 properties that the council allege are in use as HMOs, 3 of which are unlicensed. I have not been provided with any evidence of the

lawful planning use of any of these properties. Although the council's statement advises that there are 162 other residential properties in the 100m radius, according to its Uniform database, there is nothing before me to explain how accurate this database is or what evidence has been used to inform it.

11. Whilst I acknowledge that Policy LP11 does not specifically refer to licensed or unlicensed HMOs, which is unsurprising given that licensing is not a planning matter, it would not be reasonable or logical to withhold planning permission for the proposal based upon the existence of unlawful and/or unlicensed HMOs in the area that the council is clearly aware of and could take appropriate action against, should that be deemed necessary due to any harm it may be causing.
12. Even if I were to accept that the proposal would, when taken with existing bedsits and HMOs within a 100m radius of the site, exceed 10% of all residential accommodation in that area, the purpose of that part of the policy is to avoid an over concentration of people with personal, financial or health issues moving into the area and placing pressure on public services or detracting from the public perception of the area, which is important for attracting visitors, tourists and investors to spend money in the area.
13. There is no evidence before me to suggest that six unrelated students living in a HMO would put any greater strain on public services than six people living together as a single household. Moreover, the college and the students it attracts, no doubt increase spending in the town, helping to boost the local economy and to attract investors.
14. The proposal would not result in the loss of tourist accommodation and there is no reason why the property could not revert back to a single family dwelling in the future. I have not been advised that there is a shortage of large self-contained flats in this town centre location or that there is alternative suitable accommodation available for students. The floor plans submitted demonstrate that all of the bedrooms and shared living spaces are of an appropriate size, which would not lead to poor living conditions or health problems for tenants.
15. I am also mindful of the fact that Paragraph 120 of the National Planning Policy Framework promotes making more effective use of land and under-utilised buildings including using space above shops.
16. Although insufficient evidence has been provided to enable me to reach a conclusion on the proportion of bedsits and HMOs within a 100m radius of the site, the proposal would accord with the general aims and objectives of Policy LP11 of the local plan and would not result in any harm to the economy of town or its public services.

Conditions

17. In addition to the standard time limit condition and list of approved drawings, I consider it is reasonable to impose a condition restricting the occupancy of the residential accommodation to no more than 6 people, to avoid overcrowding of the property and to ensure that future occupiers have an acceptable standard living space.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

R Bartlett

INSPECTOR