



Appeal Decision

Site visit made on 12 April 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/X3540/W/22/3309867

2 Flensburg Street, Lowestoft NR32 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 Mr Gary Rivett of Rivett Property Lettings Limited against the decision of East Suffolk Council.
 - The application Ref DC/22/3067/FUL, dated 2 August 2022, was refused by notice dated 7 October 2022.
 - The development is described as 'No building work will take place. it will simply be changed from a 5-bedroomed, single-family residence to a 5-bedroomed HMO'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant confirmed in their appeal statement that the property has been let by a company which provides assisted living to people who need support prior to moving to other accommodation. I observed that the property was in use and that there were support staff present during my site visit. However, the use of rooms within the property was not consistent with either the submitted plans, or the written update.
3. I have therefore considered the appeal on the basis of the description of development on the application form and the layout plan as amended by the appellant's email of 8 February 2023.
4. The appellant has included additional information with the appeal with respect to 'exceptional circumstances'. The Council has challenged the acceptability of this, having had regard to the advice contained within the 'Planning Appeals Procedure Guide – England'. However, this additional information does not substantially alter the development as proposed, nor materially alter its nature. Furthermore, the Council provided comments on the appellant's statement and were given the opportunity to respond to the appellant's final comments. I therefore consider that no party would be prejudiced were I to consider this additional information and I have taken it into account in reaching my decision.

Main Issue

5. The main issue is whether the site is a suitable location for the proposed development with regard to the provisions of the development plan in respect of conversion to houses in multiple occupation (HMO).

Reasons

6. East Suffolk Council Waveney Local Plan adopted 20 March 2019 (LP) Policy WLP8.4 sets out criteria which must be satisfied in order for conversions to HMO to be acceptable.
7. The application was not accompanied by scaled plans, and the floor area of the property has not been specified. I therefore cannot be certain that the original property is at or above the 160sq m identified as appropriate for conversion. The submitted evidence also has not demonstrated that there is adequate existing sound insulation between the appeal site and the attached neighbouring properties. This would be necessary to address potential increases in noise, particularly as the proposed layout includes a laundry room at first floor level. This could give rise to noise and vibration effects beyond those which would normally be expected at a residential property. It would be necessary for it to be demonstrated that a suitable scheme could be installed to ensure that there would not be an adverse effect on the living conditions of the attached neighbours.
8. The use of the existing dwelling stock to provide supported living to people with a range of needs is not uncommon and would not constitute an exceptional circumstance in and of itself. No specific features of this particular property have been identified which make it particularly suited to the use. Furthermore, there is no mechanism before me which would restrict the use to the property to providing supported living. There is no substantive evidence before me to demonstrate that there is a particularly high demand for multi-let properties or that the Council is not delivering sufficient dwellings. I therefore consider that the exceptional circumstances necessary to justify the conversion of the property to an HMO have not been demonstrated.
9. I observed the rear yard area of the property during my site visit and acknowledge that it is small and not of a particularly usable layout for use as a garden. In my view, this would be sufficient reason to conclude that the existing property would no longer be suitable for family accommodation. However, there would be sufficient space within this area for appropriate cycle and bin storage to be provided and this could be secured by condition. A contamination condition would be a precautionary measure were the appeal to be allowed. However, this would not outweigh the conflict with the other aspects of LP Policy WLP8.4 that I have found.
10. I therefore conclude that the site is not a suitable location for the proposed development with regard to the provisions of the development plan in respect of conversion to houses in multiple occupation. It would be contrary to LP Policy WLP8.4 which seeks to ensure that dwellings to be converted are of a suitable size, that there would not be detrimental impacts to adjoining family houses and which requires there to be exceptional circumstances to permit conversion to HMO.

Other Matters

11. Whilst I note that an HMO licence has been granted, there is no substantiated evidence before me that such a decision took account of the effect upon the living conditions of occupiers of neighbouring properties nor the saturation levels of HMOs in the area as required by LP Policy WLP8.4. In any event it is

not material to the determination of a planning appeal whether the proposal meets the requirements of other regulatory regimes.

12. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 (the Act). The Act sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. The negative impacts of dismissing this appeal will arise from the potential challenges of finding appropriate accommodation to provide supported housing. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on those with protected characteristics would be proportionate, having regard to the potential adverse effects of allowing the development and the ability of other premises within the dwelling stock to meet such needs.

Conclusion

13. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given and having had regard to all other matters raised, the appeal should be dismissed.

J Downs

INSPECTOR