
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: 21st June 2023

Appeal Ref: APP/A1530/W/22/3304094

Four Sevens, 28 Inglis Road, Colchester CO3 3HU

- 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 Y Cheung of Boyer Planning against the decision of Colchester Borough Council.
 - The application Ref 212968, dated 22 October 2021, was refused by notice dated 12 April 2022.
 - The development proposed is change of use from an existing Guest House to a House of Multiple Occupancy (HMO).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from an existing Guest House to a House of Multiple Occupancy (HMO) at Four Sevens, 28 Inglis Road, Colchester CO3 3HU, in accordance with the terms of the application, Ref 212968, dated 22 October 2021, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The name on the appeal form is different to that on the application form. The appellant has confirmed that this was done in error and that the appeal should proceed in the same name as the application.
3. It has been suggested by third parties that due to the presence of staff, the proposal would result in the creation of a residential institution falling under use class C2. However, the Council do not raise this concern and I have therefore determined the appeal on the basis that it has been submitted. In the event that the site is not operated in accordance with any permission granted, that is a matter for the Council to address in the first instance.

Main Issues

4. The main issues are the effect of the proposed use on i) the character of the area and the living conditions of occupiers of nearby properties, with regard to increased cars, noise and disturbance; and ii) the integrity of designated habitat sites along the Essex Coast.

Reasons

Character of the area and living conditions

5. The appeal property comprises a large three storey detached building. It is evident from the appeal decision at Appendix 5 of the appellant's statement, that planning permission was granted in 1985 to change the use of the building

from three flats to four guest rooms and two flats. The planning history provided also confirms that rear extensions were subsequently granted to provide private additional accommodation. Based upon the existing floor plans and other information before me, it would appear that the property was last used as a guest house, with private live in managers accommodation to the rear.

6. Although the immediate neighbouring properties are single family dwellings, flats are not uncommon in this predominantly residential area and can be seen in both purpose-built blocks and sub-divided former houses.
7. It is proposed to change the use of the guest house to a HMO, reducing the overall number of bedrooms from seven to six. The six HMO rooms are each intended for single occupancy. However, the information submitted suggests that one of the rooms could potentially also occupy a parent with a dependant child should such a need arise.
8. Despite the overall reduction in bedroom numbers, concerns have been raised regarding the intensification of the use of the property and its potential to result in increased levels of traffic, parking issues, noise and disturbance.
9. In addition to the potential 7 residential occupiers, two staff members (one full time and one part-time) would work in the property during normal office hours, to support occupiers of the HMO in terms of finding employment and managing their finances. This would not be significantly different to flats or a family home, many of which also receive regular visits from tutors, support workers and health care professionals. A guest house would also have staff that would not necessarily be limited to those living on site.
10. Whilst I acknowledge that the guest house may not have always been occupied at full capacity under its previous ownership and management, there is nothing to prevent it from being fully occupied all year round, or to prevent its rooms from being occupied by more than one person. Guest houses are not only used for summer holidays, visitor accommodation is required all year round for a variety of reasons. There is no substantive evidence before me to demonstrate that the overall intensity of the proposed use would be substantially greater than that of the current lawful use of the site.
11. There is off street parking for two cars at the front of the property. Inglis Road is a wide street with parking available on both sides. I have no reason to doubt that traffic and parking demand is increased around school pick up and drop off times and I noted during my visit that a residents parking permit scheme is in place Mon-Sat between 12.30 and 13.45. However, the site is conveniently located close to facilities and services, including public transport. Cycle storage would also be provided on site. As such future occupiers and staff would not need to be dependant upon private cars to visit the site or to meet their daily needs. It is also reasonable to assume that many guest house customers would travel by car. There is no evidence that the proposal would introduce any greater demand for parking than the existing lawful use of the site or that an increase in traffic or on street parking in this area would be detrimental to highway safety. No objections have been raised by the local highway authority.
12. The change of use would not result in any greater loss of privacy to neighbouring residents who would continue to be overlooked by the same number of rooms/windows. The bedrooms would be for single occupancy, with

the exception of potentially one child. Whilst the outdoor space is more likely to be used by residents than guest house visitors, there is no obvious reason why its use would generate any more noise and disturbance than any other residential garden. The appellant has confirmed that use of the fire escape doors and stairs would be restricted to emergencies only. It has not been shown that the potential for residents to smoke outside of the property is any greater than that of the guest house or any other form of residential property.

13. There is also no reason why a property of this scale could not be occupied by a large family, comprising six or more adults and children, with several cars and receiving regular visitors. Moreover, the former use of the property as three flats would have accommodated similar occupancy levels to those proposed and a planning condition could be used to restrict the maximum occupancy of the building to ensure satisfactory living conditions for existing local residents and future occupiers.
14. The comings and goings of six or seven residents and two daytime staff would not be dissimilar to that of a guest house, self-contained flats or indeed a large family home.
15. The Council's appeal statement whilst acknowledging a demand for the proposed use, suggests that no justification has been provided as to why this particular site was chosen for HMO use. However, there is no policy justification for such a requirement and the Council has not suggested any suitable and available comparable alternatives.
16. I therefore conclude that the proposed change of use would not result in a level of intensification above that of the lawful use of the building and would not result in harm to the character of the area or to the living conditions of neighbouring occupiers with regard to increased cars, noise and disturbance. The proposal would therefore accord with Policies DP1 and DP12 of the Local Development Framework Development Policies (2010, revised 2014), which seek amongst other things to ensure that development protects existing public and residential amenity.
17. The decision notice also refers to Policy UR2 (Built Design and Character) of the Local Development Framework Core Strategy (2008 selected policies revised 2014) and Policy SP7 (Place Shaping Principles) of the North Essex Authorities' Shared Strategic Section 1 Plan (2021). As these policies relate to strategic and built design matters, they are not relevant to this minor change of use proposal, which does not involve any external alterations and I find no conflict with these.

Designated habitats sites

18. The appeal site lies within the Zone of Influence (ZoI) covering multiple Designated Habitat sites along the Essex Coast. These sites were designated primarily to protect migrating birds and are home to internationally important numbers of breeding and non-breeding birds and their coastal habitats. The Essex coastline features a variety of habitats and environments, which include mud-flat, saltmarsh, grazing marsh, sand and shingle spits, shell banks and offshore islands, disused gravel pits and reedbeds. These habitats provide feeding and roosting opportunities for the large numbers of waterbirds that use the Essex coast. The Conservation of Habitats and Species Regulations 2017

(as amended) (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment.

19. Whilst I have been presented with no substantive evidence that the proposed change of use from a guest house to a HMO would intensify the overall use or occupation of the property, long term residents may well travel to the Essex Coast for recreational purposes more frequently than short term guests. Increased recreational activity, such as walking, jogging, cycling and the presence of dogs, resulting from population increases, can disturb nesting and feeding birds and the migrating birds' opportunities to feed, which can leave them with insufficient energy to survive or complete their journeys.
20. Although this development alone would have a negligible effect on any designated sites, it is necessary to consider the cumulative effects of residential developments in the area, which are significant. The Council, in conjunction with other nearby Councils and Natural England, have produced and adopted a Mitigation Strategy and Supplementary Planning Document to manage the effects of new developments within the ZoI. As part of the appeal process the appellant has made a financial contribution to the Council, which the Council confirm would be used towards providing the mitigation measures set out in these documents.
21. I have consulted Natural England and it has confirmed that it is content that the financial contribution made by the appellant towards the delivery of mitigation measures is sufficient to avoid adverse effects on the integrity of affected European Sites. The Council has also confirmed this and has subsequently withdrawn reason 2 of its original refusal notice.
22. I therefore conclude that the proposal would not have an adverse affect on the integrity of any designated habitats sites and would accord with Policy DP21 of the Local Development Framework Development Policies (2010, revised 2014) and Policy SP2 of the Colchester Borough Local Plan 2013-2033 North Essex Authorities' Shared Strategic Section 1 Plan (2021). These policies seek to ensure that appropriate mitigation is secured to enable the delivery of development without harm to habitats sites. The proposal would also accord with the Framework and the Habitats Regulations.

Other Matters

23. I acknowledge the concerns of local residents regarding the intention to use the proposed HMO to support and house vulnerable women. However, the planning system is only concerned with land use and the occupancy of the HMO would not be restricted to such persons. A HMO is a residential use and would be appropriate in this residential area.
24. My attention has been drawn to a previous HMO in the area, at 60 Creffield Road, which I am advised caused frequent and numerous problems. However, it would be unreasonable to refuse planning permission based upon this one example when many HMOs are operated successfully and without causing any harm to neighbouring occupiers.
25. Although fear of crime and anti-social behaviour are material considerations such concerns must be balanced against the fact that there is nothing to stop any property from being occupied by any person regardless of their past history or their current wellbeing. There is no substantive evidence before me

to suggest that occupiers of HMOs pose any greater threat to children than those occupying any other type of property.

26. It is not surprising that the current owner is awaiting the outcome of the appeal prior to investing money into repairing and renovating the building given the uncertainty over its future. However, at the time of my visit the site did not appear untidy or detract from the appearance of its pleasant surroundings.
27. As I have found that the existing levels of occupancy would likely be comparable to historic uses, there is no reason why the proposal should place undue pressure on public services.
28. I note concerns regarding the devaluation of nearby properties, but the planning system does not exist to protect such private interests.

Conditions

29. In addition to the standard time limit and list of approved drawings, I have imposed a condition to restrict the occupancy of the HMO to a maximum of 6 adults and 1 child to ensure that future residents have adequate standards of living space and to protect the living conditions of neighbouring residents.
30. Management and maintenance plans have been submitted with the appeal. However, very little of their content is relevant to planning and most would be covered by other legislation. The maintenance of the building would continue to be the responsibility of the owner. In accommodation such as apartments, flats and HMOs, shared building maintenance contributions, where required, are generally controlled by private contracts between landlords and tenants. However, having regard to Policy DP12 of the Council's Development Policies Document, I have imposed a condition for a management plan to be put in place to ensure the external appearance of the site is maintained to protect the character and appearance of the area. For the same reason, a condition to ensure appropriate refuse and recycling facilities, and storage space for these is provided and retained is also necessary.
31. To encourage sustainable means of travelling, I have imposed conditions requiring public transport information, cycling and walking routes to be displayed and regularly updated in a communal area of the HMO, and to require the approval, provision and retention of secure cycle storage.

Conclusion

32. For the reasons given above and having had regard to all matters raised, I conclude that the appeal should be allowed.

R Bartlett

INSPECTOR

SCHEDULE OF 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: Drawing Nos. IR28.01_A, IR28.02_A and IR28.03_B.
- 3) The HMO hereby approved shall be occupied by no more than 6 adults and 1 child at any one time (excluding staff).
- 4) Prior to the first occupation of the HMO hereby approved, a plan setting out measures to ensure that the external appearance of the building and its grounds are maintained in a safe, clean and tidy condition at all times, shall be submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to for the life of the approved HMO use.
- 5) Prior to the first occupation of the HMO hereby approved, details of public transport facilities, including routes, timetables and locations of bus stops, and information to promote walking and cycling, shall be displayed in a communal area of the building and shall be regularly updated and maintained for the life of the approved HMO use.
- 6) Prior to the first occupation of the HMO hereby approved, refuse and recycling storage facilities shall be provided in accordance with a scheme that shall first be submitted to and approved in writing by the local planning authority. These facilities shall thereafter be retained in accordance with the approved scheme for the life of the approved HMO use.
- 7) Prior to the first occupation of the HMO hereby approved, secure cycle storage, sufficient for all residents and staff of the development, shall be provided in accordance with a scheme that shall first be submitted to and approved in writing by the local planning authority. These facilities shall thereafter be retained in accordance with the approved scheme for the life of the approved HMO use.