

Appeal Decision

Site visit made on 4 January 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/U2235/W/23/3328494

7 Upper Fant Road, Maidstone, Kent ME16 8BP

- 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 Personal Properties Limited against the decision of Maidstone Borough Council.
 - The application Ref 23/502968/FULL, dated 26 June 2023, was refused by notice dated 24 August 2023.
 - The development proposed is the change of use from 6-person HMO (Use Class C4) to 11-person HMO (Sui-Generis).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Personal Properties Limited against Maidstone Borough Council. This application is subject to a separate decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. Having considered the revisions in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.
4. The Council is currently preparing the Maidstone Local Plan Review (MLPR) which is going through examination and therefore is at an advanced stage of preparation. The evidence before me suggests that the plan is expected to be adopted in early 2024. Accordingly, I attribute moderate weight to this plan.
5. It has been brought to my attention that the property has operated as a licenced HMO in the past, and that the existing bedroom in the lower ground floor has been in place since the property was first converted. However, within the context of an appeal under section 78 of the Act, it is not within my remit to formally determine whether this room has a lawful use. If the appellant wishes to ascertain whether the room is lawful, they may make an application under section 191 of the Act. As such, I have assessed the appeal strictly on the basis of the existing and proposed plans.

Main Issues

6. The main issues are:

- whether the proposal would provide acceptable living conditions for the future occupants of the basement room, with regard to light, outlook and internal space provision; and
- the effect of the proposed development on the availability of on-street parking provision, with particular regard to highway safety and the character and appearance of the area.

Reasons

Living conditions

7. The House in Multiple Occupation (HMO) has a kitchen and dining area, however there is no internal communal lounge. So, it is likely that occupants of the basement room would spend more time in it. The room is served by one window onto a lightwell. This window offers inadequate views to the external environment. In addition, the limited gap to the lightwell unduly restricts the amount of natural light that the bedroom receives. As such, whilst lightwells are a common building feature, in this instance the lightwell would not provide occupants with an acceptable standard of light or outlook.
8. Moreover, whilst the size of the room may meet the standards set out in the Maidstone Houses in Multiple Occupation Standards Book (SB), the floor to ceiling height is limited which, in combination with the limited outlook and natural light, results in the room feeling oppressive and cramped. As such, the basement room would provide an inadequate private living space for occupants.
9. Whilst HMO licensing is a separate entity to planning, the licencing seeks to ensure that an HMO is safe and has basic facilities. Planning policies on the other hand seek to deliver functional accommodation with a high-quality living environment for the intended occupiers. As such, I am not persuaded that compliance with the SB would successfully address the bedroom's poor quality of accommodation.
10. My attention is drawn to a planning permission that has recently been granted for an 11 person HMO at No 3 Upper Fant Road, where there is a lower ground floor bedroom. However, on the evidence before me, I cannot be clear of the specific circumstances and considerations that led to the approval of this application. Further, the details provided in relation to other HMOs consented elsewhere in Maidstone are very limited. As such, I cannot make any useful comparison between the proposal and these other schemes.
11. In conclusion, the proposal would fail to create acceptable living conditions for future occupants of the basement room, with regard to light, outlook and internal space provision. The proposal would be contrary to Policy DM1 of the LP and to Policy LPRSP15 of the MLPR, where these policies support development that provides adequate residential amenities for future occupiers. The proposal would fail to accord with the Framework, where it supports the creation of places with a high standard of amenity for future users.

Parking provision

12. Upper Fant Road is a street with marked parking bays either on one or on both sides where parked cars are a part of the local character. The appeal property is an end-of-terrace dwelling currently in use as a 6-person HMO which contains a forecourt for parking of up to four vehicles.
13. The Maidstone Borough Local Plan 2017 (LP) does not appear to set out car parking standards for HMOs, but where planning permission is required, the Council appears to apply the standard of one off-street space per room. For an edge of centre location, such as the appeal site, that standard is set as a maximum.
14. The proposal seeks to increase the number of residents from six to eleven, so it would generate a maximum requirement of five additional parking spaces. The property's forecourt can accommodate four parking spaces, so any additional cars would likely be parked on the street.
15. Upper Fant Road is part of a controlled parking zone. It is evident from the information before me that there is pressure in the area for on-street parking. However, the site is located within walking distance to different public transport modes and is not far from Maidstone town centre, so it is unlikely that future occupiers would require a private car to carry out their daily needs. The Council draws my attention to several issues that may occur because of high parking demand. However, there is limited evidence before me to demonstrate that there are problems in the area, including pavement parking, and any conflicts between residents would be subject to normal policing and controls within the highway.
16. Further, although the proposal could potentially result in five additional vehicles parked on the road, it would not detract from the character of the area where there are plenty of on-street parking bays. The proposal would generate the need for additional bins; however details of adequate bin storage facilities could be secured by planning condition, were I minded to allow the appeal.
17. As such, I conclude that the proposed development would not have a significant effect on the availability of on-street parking provision, with particular regard to highway safety and the character and appearance of the area. The proposal would therefore accord with Policies DM1 and DM9 of the LP and with Policy LPRSP15 of the MLPR, where these policies support development that safely accommodates the vehicular movement generated by the proposal on the local highway network and would fit unobtrusively with the character of the area. The proposal would be in accordance with the Framework, where it seeks to promote sustainable transport.

Conclusion

18. I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight, including the provisions of the Framework, to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR