



Appeal Decision

Site visit made on 27 February 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

Appeal Ref: APP/T1410/W/23/3326210

13 Gorringe Road, Eastbourne, East Sussex BN22 8XL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jez and Chris Colville (Bastille Property Ltd) against the decision of Eastbourne Borough Council.
 - The application Ref is 220961.
 - The development is described as 'change of use from residential care home (C2 use) to 11 bedroom HMO (sui generis use) with associated bin and cycle storage area.'
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from residential care home (C2 use) to 11 bedroom HMO (sui generis use) with associated bin and cycle storage area, at 13 Gorringe Road, Eastbourne, East Sussex BN22 8XL in accordance with the terms of the application, Ref 220961, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the banner heading and decision above, I have used the description given on the Council's decision notice, which the Appellant has confirmed was amended from the slightly different wording on the application form. I am satisfied that this accurately describes the development. Although the application form refers to 12-13 Gorringe Road, it is clear from the drawings that the development is at 13 Gorringe Road only, so I have used this address, as given on the decision notice and appeal form.
3. Use of the building as a house of multiple occupation (HMO) has already commenced and therefore I am considering the appeal retrospectively.
4. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issue

5. The main issue is the effect of the development on living conditions for the occupiers of nearby properties.

Reasons

6. The appeal site is a substantial residential property, which was used as a nursing home prior to the change of use now under consideration. The nursing home occupied both 12 and 13 Gorringe Road, which are connected by an infill extension. However, this appeal concerns the use of no. 13 only, since no. 12 is being converted to three flats under a separate planning permission¹.
7. The building stands in a row of similar dwellings along one side of Gorringe Road. Like its neighbours, it is elevated above street level, behind a terraced front garden, with a larger garden at the rear. There are several steps up to the front door and side passage, but the front garden is otherwise enclosed by a brick wall.
8. The property provides 11 bedrooms, each intended for single occupancy. While this is likely to be a higher level of occupation than that of the nearby family dwellings, it is below that of the nursing home which previously occupied the building. The previous use included 13 bedrooms within the appeal site and staff and visitors would also have been present on a regular basis.
9. The most recent pattern of arrivals and departures may have been moderated by the nature of the care provided, with the nursing home residents being unable to drive. However, there is evidence in letters of support that the care home involved comings and goings at unsocial hours, which caused disturbance to immediate neighbours. Furthermore, there is no dispute that the property has an established use within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987. The range of permitted uses within this class would encompass a typical level of activity at least comparable to, and potentially more disruptive than, the intended level of occupation.
10. There is no dispute between the main parties that the building provides suitable accommodation in generous-sized single bedrooms. The Appellant proposes conditions to prevent short term lets and limit the maximum level of occupation. This would prevent more transient and potentially disruptive forms of occupation and secure the site's availability for long term residents, with lifestyles that are likely to be compatible with the surrounding residential area.
11. Interested parties have highlighted issues with poor waste management, affecting the surrounding area. The elevated front garden does not easily accommodate bin storage and collection at present. However, the application includes formation of a bin storage area alongside the dwelling, with ramped access to the street, and a weekly managed bin collection service is proposed, to minimise disruption. With those safeguards, which can be secured through planning conditions, adequate facilities would be available to handle waste and recycling. The arrangements would also minimise the need for bins to be placed on the pavement, obstructing access.
12. Some degree of inter-visibility between gardens is inevitable in a residential area such as this and use of the garden by the occupiers would not be unacceptably intrusive. Like the other dwellings, the property has a veranda at the front, which could encourage occupiers to linger and talk in the front garden. However, the likely level of social interaction would not cause an

¹ Eastbourne Borough Council planning application ref 230049, granted 14 July 2023

unreasonable level of disturbance for nearby residents. In the event of anti-social behaviour, this would remain subject to other regulatory regimes.

13. For the reasons given above, I conclude that the development would not have an unacceptable effect on living conditions for the occupiers of nearby properties. As such, it does not conflict with relevant requirements in Policy B2 of the Eastbourne Core Strategy 2013 or Policy HO20 of the Eastbourne Borough Plan 2001-2011, adopted 2007. These policies, amongst other things, require that development safeguards the amenity of existing residents, taking into account issues including noise, general disturbance, cleanliness and odour.
14. There is likewise no conflict with relevant paragraphs in the Framework, including paragraph 180, which requires that new development avoids contributing to unacceptable levels of noise pollution, and paragraph 135 which requires that development should function well and provide a high standard of amenity for existing and future users.

Other Matters

15. There is unrestricted parking on Gorrington Road and no substantive evidence that demand for the available spaces would exceed the likely level if the property remained in C2 use. The site is in an urban location where local services and public transport can be accessed without relying on travel by car and cycle storage would be provided. The Council has not alleged any conflict with policies relating to car parking or highway safety and based on the evidence before me I have no reason to reach a different view.
16. The Council indicates that areas at risk of flooding are limited to the lower-lying land adjacent to the site, which would be unaffected. The intended level of occupation would be comparable to the previous use of the property, which would have included laundry, toilet and washing facilities for the nursing home residents. As such there is no substantive evidence that the development would materially increase pressure on existing foul drainage infrastructure.
17. Suitable arrangements for emergency evacuation and fire safety are covered by other regulatory regimes. Similarly, compliance with health and safety regulations during construction is not a matter for this appeal.
18. There is provision within the planning system for the acceptability of unauthorised development to be considered retrospectively on its merits and that is what I have done. The particular circumstances relating to the appeal proposal would be unlikely to be repeated elsewhere, so concerns about a precedent being set for other development are not a significant consideration.
19. The proposal would not provide family housing, but it would make a useful contribution to the supply of housing for single people, in an area where there is an acknowledged shortfall in housing land supply. The relevant development plan policies are consistent with the Framework's requirements that development should function well and provide a high standard of amenity for existing and future users. I have not identified any conflict with the Framework, subject to the imposition of suitable planning conditions.
20. On that basis, there are no adverse impacts that would significantly and demonstrably outweigh the benefits, including the contribution to the supply of housing, when assessed against the policies in the Framework taken as a

whole. Therefore, the proposal benefits from the presumption in favour of sustainable development as articulated in paragraph 11d of the Framework.

Conditions

21. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity.
22. Although the property is already occupied, the drawings include physical alterations which have not yet been carried out. I have therefore imposed a condition requiring compliance with the approved plans, for clarity.
23. As suggested by both main parties, I have imposed conditions limiting occupancy to no more than 11 people and the minimum stay to three months. This is necessary to regulate the likely level of activity and maintain acceptable living conditions. In the context of a property which would be managed as a house of multiple occupation and subject to relevant licensing requirements, I am satisfied that both conditions are reasonable and enforceable.
24. Both parties suggested a condition to require approval and implementation of a Management Plan. Although there may be some overlap with other regulatory regimes, I agree that this is necessary to ensure that the property is cared for and occupied in a manner which avoids undermining the living conditions of nearby residents. I have therefore imposed a condition to ensure that the required details are submitted, approved and implemented, so as to make the development acceptable in planning terms.
25. In this case, there is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the Management Plan before the development takes place. The condition will ensure that the development can be enforced against if these requirements are not met. In the event that the Council's approval is delayed due to circumstances beyond the Appellant's control, that is a matter which I would expect the Council to take into account when deciding whether it is expedient to enforce the strict terms of the condition.
26. I have imposed conditions to ensure that the proposed refuse, recycling and cycle storage facilities are implemented in a timely manner and retained in the long term. This will support effective waste management in line with the Management Plan and the provision of cycle storage to comply with the development plan. In both cases, a strict timetable is provided for implementation to ensure that the required facilities are provided in a timely manner and that compliance can be enforced if the timetable is not met.
27. Although the front garden appeared recently landscaped and well-maintained at the time of my site visit, a landscaping condition is required to ensure that it remains in good condition following construction of the proposed bin storage and collection facilities. Confirmation of landscaping and boundary treatments across the site as a whole is necessary in the interests of the character and appearance of the area and living conditions for neighbouring residents. I have therefore imposed a condition to secure timely implementation of any further hard and soft landscaping, with a deadline to enable enforcement if the timetable is not met.

28. The landlord and occupiers would be required to comply with the Management Plan and the separate HMO licensing regime, so a condition requiring a live-in manager would be unreasonable. Since the site provides adequate facilities for future occupiers, a requirement for additional communal space would also be unnecessary and unreasonable.

Conclusion

29. There is no conflict with the development plan subject to the conditions imposed, and no material considerations indicate that a decision should be taken other than in accordance with the development plan. Therefore, for the reasons given the appeal should be allowed.

Jane Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - 1025.17 Rev A: Site and Block Plan
 - 1025.19: Proposed Floor Plans
- 2) The HMO rooms hereby approved shall be single occupancy only, with the total number of occupiers at the HMO limited to a maximum of 11.
- 3) Occupation of any of the HMO rooms hereby permitted shall be limited to a minimum stay of 3 months.
- 4) Unless within one month of the date of this decision a Management Plan is submitted in writing to the local planning authority for approval, and unless the approved Management Plan is implemented within one month of the local planning authority's approval, the use of the site as an 11 bedroom HMO shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a Management Plan is approved and implemented.

If no Management Plan in accordance with this condition is approved within three months of the date of this decision, the use of the site as an 11 bedroom HMO shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a Management Plan approved by the local planning authority is implemented.

The Management Plan required in accordance with this condition shall include details of arrangements for the management of litter and the cleanliness of the site, the maintenance of the building and the management of refuse and recycling storage areas and containers, including measures to ensure that such

containers are not stored on the public highway and are returned promptly to the designated storage areas following refuse or recycling collection.

Upon implementation of the approved Management Plan specified in this condition, the site shall be managed in accordance with that Management Plan for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) Notwithstanding what is shown on the approved drawings, within one month of the date of this permission details of enclosed refuse and recycling storage facilities shall be submitted for approval in writing by the Local Planning Authority. Within two months of approval, the facilities shall be provided in accordance with the details approved and retained solely for the storage of refuse and recycling for the lifetime of the development.
- 6) Within one month of the date of this permission, details of secure and covered cycle parking facilities for 11 no. cycles shall be submitted for approval in writing by the Local Planning Authority. Within two months of approval, the facilities shall be provided in accordance with the details approved and retained as such for the parking of cycles for the lifetime of the development.
- 7) Within two months of the date of this permission, details of treatment of all parts of the site not covered by buildings shall be submitted for approval in writing by the Local Planning Authority. The submitted details shall include:
 - a scaled plan showing all hard and soft landscaping, including vegetation to be retained and proposed planting,
 - details of all hard surfaces, and
 - proposed boundary treatments.

The site shall be landscaped strictly in accordance with the approved details in the first planting season following approval. Any new planting that dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Any replacement planting shall be in accordance with the approved details.

END