



Appeal Decision

Site visit made on 5 June 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2024

Appeal Ref: APP/M3645/W/24/3339227

387 Godstone Road, Whyteleafe, Surrey CR3 0BF

- 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 Sean Hearty against the decision of Tandridge District Council.
 - The application Ref is TA/20231021.
 - The development proposed is erection of first floor extension to existing bungalow to form two storey house. Erection of single storey rear extension and decking area and change of use from dwelling house (C3) to HMO for 7 rooms (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is taken from the decision notice and appeal form as this accurately and succinctly describes the development proposed.

Main Issues

3. The main issues are the quality of living conditions for future occupiers with particular regard to internal space, and the effect of the proposed development on flood risk.

Reasons

Living conditions of future occupiers.

4. The proposed House in Multiple Occupation (HMO) would include a common room at ground floor, with kitchenettes shown in each of the bedrooms. The Council have identified specific concerns with the sizes of bedrooms 3, 6 and 7.
5. I am referred to standards in the HMO Planning Permission guidance note dated 10/02/2019 by Rupert Wallace. Although I am not provided with the detail of these the appellant states that the proposed development meets these standards. Also the 'Houses in Multiple Occupation and residential property licensing reform document' dated December 2018 and the HMO licence guidance. In the case of bedrooms with common living rooms and kitchens the latter two set similar standards of a minimum of around 6.5sqm for a single room. The HMO licence guidance requires 13sqm for a bedroom with a cooker.
6. The floorspace annotated for bedrooms 6 and 7 would be around 7.7sqm, albeit no dimensions are listed for bedroom 3. However, the kitchenette and associated circulation would occupy part of the area in all of these rooms.

7. Nonetheless, considering the size, layout, the location of doors and the kitchenettes, particularly in bedrooms 7 and 6, I am not satisfied that there would be sufficient space for the location of beds, furniture and suitable circulation space in these rooms to allow for an adequate standard of occupation. As such, even taking the standards described above into account, these rooms would not provide suitable living conditions with regard to the internal space for the reasons described above.
8. Consequently, the proposed development would not provide adequate living conditions for future occupiers with particular regard to internal space. As such, it would be contrary to Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (2014) (LP) which, in part, requires a satisfactory environment for the occupiers of the new development.

Flood Risk

9. There is a culverted river to the rear of the main property, however the details submitted do not show its exact location. Development within 8m of a culvert may affect the structural integrity of the culvert, consequently increasing flood risk. As such, I do not have detailed evidence before me that contradicts the specialist evidence from the environment agency and the Council's position that the proposed development may increase flood risk due to the effect on the culverted river.
10. The site is within flood zones 2 and 3 where there is a high risk of flooding. The submitted Flood Risk Assessment (FRA) relates to an application for a residential extension, this is not the same as the development proposed. Nevertheless, it describes the site specific circumstances relating to the proposed building works. The FRA provides details that the flood water level in the rear garden would not exceed 98.25m AOD and the buildings finished floor level would be between 99.00m and 99.25m AOD. There is no dispute between the parties that the finished floor levels would be acceptable. Consequently, on this basis, no part of the development is below the estimated flood level. As such there is nothing before me to indicate that there is a requirement to provide details of emergency access and escape.
11. I note that the application for similar extensions to the property¹ (the 2023 application), was not refused with regard to flood risk. However, the evidence regarding the culvert is a relevant consideration in this appeal, and I must take it into account.
12. Therefore, the proposed development would increase flood risk. As such, in this regard it would be contrary to Policy DP21 of the LP which requires that development would at least be flood risk neutral.

Other Matters

13. The 2023 application was for similar building works although the proposed use was as a single dwelling not an HMO. However, considering the reasoning above, whilst there may be similar effects with regard to flood risk, the proposed development would be more harmful with respect to the living conditions of future occupiers. As such this would not justify the proposed development.

¹ LPA ref 2023/3

14. The Council cannot demonstrate a 5 year supply of deliverable housing sites, therefore paragraph 11(d) of the National Planning Policy Framework (2023) is engaged. However, for the reasons above, the application of policies relating to areas at risk of flooding provides a clear reason for refusing the development proposed, as set out in footnote 7. Consequently, the presumption in favour of sustainable development does not apply in this case.
15. The proposed development would provide additional HMO bedrooms in an accessible location which would make a contribution towards significantly boosting the supply of homes. Whilst HMO accommodation would provide for a specific housing requirement, the proposed development would not be affordable housing in planning policy terms and I have no mechanism to secure that it would be occupied by those with vulnerabilities. Furthermore, given the scale of the proposed development, any benefits in these regards would be modest.
16. On the other hand, inadequate quality accommodation would be provided as well as an increase to flood risk, contrary to the development plan. As such, overall, this would result in significant harm. Therefore the modest benefits would not outweigh the significant harm identified, contrary to the development plan.

Conclusion

17. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR