



Appeal Decision

Site visit made on 18 June 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2024

Appeal Ref: APP/C3810/W/23/3334870

Rose Cottage, Shripney Road, Bognor Regis, West Sussex PO22 9LN

- 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 KTLX Ltd against the decision of Arun District Council.
 - The application Ref BR/168/23/PL, dated 31 July 2023, was refused by notice dated 20 October 2023.
 - The development proposed is a change of use of the existing dwelling and annexe to HMO.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of the existing dwelling and annexe to HMO at Rose Cottage, Shripney Road, Bognor Regis, West Sussex PO22 9LN in accordance with the terms of the application, Ref BR/168/23/PL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. The appellant has stated that the development is part-retrospective in nature, including partial occupancy of the property. I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character of the area; and,
 - the effect of the proposal on the availability of on-street parking.

Reasons

Character

4. The appeal site (Rose Cottage) comprises a two-storey detached dwelling and two single storey outbuildings to the rear. The main dwelling is sited fairly close to the Shripney Road frontage and contains a deep rear garden. The site is within a mainly residential area, with a public house premises (The Friary Arms) immediately adjacent its left-hand side boundary when viewed from the road. Two detached dwellings are along the other side, closer to the road. The wider vicinity contains a mixture of semi-detached and terraced dwellings of varying age and appearance.

5. The appeal proposal would change the use of the existing dwelling and its rear annexe building to a House in Multiple Occupation (HMO). The proposal would provide seven bedrooms in the main dwelling and three bedrooms in the rear annexe. The main dwelling would have a communal kitchen/dining area and the rear annexe would contain a smaller kitchen/sitting area. The other smaller outbuilding would be used as a shared utility space for washing and drying. The external alterations are limited to a new window on the side elevation of the main dwelling and alterations to the windows and doors of the rear annexe, but their locations are not widely visible from surrounding public vantage points.
6. Policy HSPA4 of the Arun Local Plan 2011-2031 (2018) (ALP) states that HMOs will be considered favourably where they would contribute to the creation of sustainable, inclusive and mixed communities and meet certain other criteria. One of these seeks to avoid an adverse effect on the character of an area, including through the erosion of the balance between different types of housing, including family housing. Neither the policy nor its supporting text set out any specific threshold or limit to the number or proportion of HMOs that would be acceptable.
7. I have received a significant amount of quantitative evidence in relation to the number of HMOs within the Hotham Ward and in the vicinity of the site. The Council's evidence shows that Hotham ward, where the site is located, has 156 HMOs. However, even taking account of discrepancies between the parties relating to the number of HMOs within 250 metres of the site, this evidence does not suggest a high proportion of such uses in the immediate vicinity. Whether the existing HMO figure within 250 metres of the appeal site is 13 or 16, the proposal would still result in less than 5% of properties within this radius being in multiple occupancy. Although there would be up to a 7.41% concentration of HMOs within 50 metres of the site, I am not persuaded that there is such a concentration of HMOs in these areas that would cause the development to have a detrimental impact on the character of the area.
8. The LPA quotes 2023 analysis that the percentage of private rented sector in Hotham Ward is 39.2%, whilst the national average is 19%. The percentage of HMOs in this Ward is however not specified. 15% of dwellings in Hotham Ward are estimated to suffer from category 1 hazards and 3% of properties are estimated to be in "despair". However, the proportion of HMOs within these categories is also not specified. This information does therefore not necessarily relate to HMOs or alter my view that the development would not lead to a harmful overconcentration of HMOs in this locality.
9. The Council's evidence also suggests that Hotham has amongst the highest levels of anti-social behaviour across the District. While this may be the case, I see no reason in principle why an additional HMO use in this location would cause or exacerbate such problems. I have also noted the Article 4 direction which removes permitted development rights for HMOs. Notwithstanding that a scheme of this size would need planning permission in any event, the Article 4 Direction does not create a moratorium on HMOs; rather it means that they must be assessed against the relevant policies and other material considerations.
10. During my site visit, I observed that Shripney Road is a well-kept street and Rose Cottage also appeared in good external condition and upkeep. It therefore did not detract from the streetscene. I am aware that my visit was only a

single snapshot in time, and that there may be unlicensed HMOs nearby that have not been captured by either the appellant's or the LPA's evidence. However, I found no qualitative evidence, such as litter or noise, that showed this street as having an imbalance towards HMOs. I also walked throughout the wider 250m radius encompassing the other identified HMO locations, but I did not experience any tangible sense of an imbalanced community, or any other harm to the character of this area that can be demonstrably attributed to HMOs.

11. Therefore, I am satisfied that the development would not cause unacceptable harm to the character of the area (including eroding the balance between different types of housing, including family housing), in compliance with Local Plan Policy H SP4 (a).

Parking

12. I noted during my site visit that dwellings along Shripney Road and adjacent streets have a mixture of on-street and off-street parking. Whilst my observations were only a snapshot in time, I saw a number of parking spaces available along Shripney Road and near to Rose Cottage. I did not see any nearby roadside parking restrictions apart from double yellow lines along the Brooks Lane West junction and the business premises near to this. I also noted that Rose Cottage is located within walking distance of services and facilities, including a convenience store and some other local shops on Highfield Road, and large supermarkets and bus stops along the A29 section of Shripney Road.
13. Rose Cottage contains hard standing in front of the main dwelling and there appears to be sufficient space here for one vehicle to park. The driveway is gated at the main dwelling side elevation and continues to the rear. The LPA accepts that a total of four off-street parking spaces can be provided, and the County Highway Authority raised no objection in consultation in respect of highway safety or capacity. I consider this to be a material consideration on some importance.
14. Based on the submitted evidence and my observations on site, this does not appear to be an area that necessitates car ownership to meet day-to-day needs. Future residents of the appeal proposal would also likely be aware that off-street parking may not always be guaranteed, and the sustainable location could also attract those who do not own, or have access to, a private car.
15. The development would provide fewer off-street parking spaces than would be required by either set of parking standards referred to by the Council. However, the shortfall with regard to the County Council's stated standards would be minimal and those in the Council's own Parking Standards Supplementary Planning Document are not specific to HMOs. Moreover, these standards are guidance only and my observations of the area are such that any shortfall that would exist would not result in any harm in terms of safety or the living conditions of nearby residents.
16. I therefore conclude that the provision of four off-street parking spaces for the appeal proposal is adequate and there is no demonstrable evidence that the HMO use would contribute to the generation of excessive parking demands in the surrounding area. The proposed development would therefore comply with Policy H SP4 (b) of the Local Plan.

Other Matters

17. Neighbouring residents and the Town Council have raised concerns regarding: proximity to neighbours; regular turnaround of residents; insufficient provision of overlooked private amenity space; and, the safety of future occupiers in the event of an emergency. The LPA has however advised that the existing rear outbuilding already has planning permission for use as an annexe (LPA Ref: BR/388/07) and contains habitable room windows facing the main dwelling and neighbouring boundaries. This lawful use of the appeal site as a dwelling with annexe would entail regular movements within and between the outbuilding and the main dwelling. I therefore do not consider that the proposed alterations to facilitate the HMO use would cause a significant additional impact on the living conditions of surrounding neighbours above the existing lawful use. The existing rear amenity space is already overlooked by the main dwelling and annexe, and access and safety requirements for future occupiers would be governed by other legislation such as Building Regulations. These matters therefore do not warrant refusal of planning permission.

Conditions

18. The LPA has suggested seven conditions in the event that the appeal is allowed. I have considered these against the tests in the National Planning Policy Framework and Planning Practice Guidance, and have amended their wording, where necessary, in the interests of clarity, consistency and precision. For the above reasons, I have also added a condition listing all the approved plans. As the development has started, I have not imposed the standard timescales condition.
19. A condition limiting the overall occupancy of the site to ten persons is necessary, to ensure adequate living conditions. The suggested hours of construction (condition 3) are necessary to protect living conditions of residents. I have however deleted the LPA's reference to "noisy work" on Sundays and public holidays, as this could lead to ambiguity. Conditions 4 and 5 are necessary to ensure satisfactory provision of off-street parking, to avoid excessive on-street demands and to provide and encourage sustainable modes of transport. I consider the suggested provision of one on-site electric vehicle charge point to be necessary and reasonable, so this is retained within Condition 6. I have however deleted the LPA's suggested reference to its SPD requirements, as this does not set out explicit requirements for HMOs. I consider conditions 7-8 to be necessary in the interests of biodiversity and sustainability.
20. I have amended the trigger points for conditions 4-8, bearing in mind that the development is part-retrospective in nature, including partial occupancy of the property. These conditions are imposed to ensure that the respectively required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. These conditions will ensure that the development can be enforced against if the required details are not submitted for approval within the period given, or if the details are not approved by the local planning authority or the

Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion

21. For the reasons given above the appeal should be allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

1) The development hereby approved shall be carried out in accordance with the following list of approved plans: 2301-03; 2301-04; 2301-07; 2301-08; 2301-09; 2301-11.

2) The development hereby approved shall accommodate a cumulative maximum of ten persons residing on the site at any one time.

3) Demolition or construction works shall take place only between the hours of 08:00 to 18:00 hours Mondays to Fridays, and 08:00 to 13:00 hours on Saturdays.

4) Unless within six months of the date of this decision the car parking spaces have been constructed in accordance with the approved site plan (2301-11), the use of the properties as houses in multiple occupancy shall cease until the car parking spaces have been implemented. The car parking spaces shall thereafter be retained at all times for their designated purpose.

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) Unless within six months of the date of this decision the covered and secure cycle parking spaces for a minimum of 4 no. cycles have been provided in accordance with the approved site plan (2301-11) and retained at all times for their designated purpose, the use of the properties as houses in multiple occupancy shall cease until the cycle parking spaces have been implemented. The cycle parking spaces shall thereafter be retained at all times for their designated purpose.

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.

6) Unless within six months of the date of this decision a scheme for the provision of one electric vehicle charge point within, and ducting to all its other parking spaces, is submitted to and approved in writing by the local planning authority, or the approved scheme has not been implemented as approved within six months of the date of the local planning authority's written approval, the use as houses in multiple occupancy shall cease until such time as an approved scheme has been provided and implemented.

The individual electric vehicle charge point(s) shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations 2010 (as amended). Upon implementation of the approved scheme specified in this condition, the electric vehicle charge point(s) shall thereafter be retained.

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.

7) Unless within six months of the date of this decision a scheme for the provision of improvements to secure biodiversity net gain is submitted to and approved in writing by the local planning authority, or the approved details have not been implemented as approved within six months of the date of the local planning authority's written approval, the use as houses in multiple occupancy shall cease until such time as an approved scheme has been provided and implemented.

Upon implementation of the approved scheme specified in this condition, it shall thereafter be retained.

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.

8) Unless within six months of the date of this decision a scheme to demonstrate that the development will incorporate energy efficiency measures is submitted to and approved in writing by the local planning authority, or the approved details have not been implemented as approved within six months of the date of the local planning authority's written approval, the use as houses in multiple occupancy shall cease until such time as an approved scheme has been provided and implemented.

Upon implementation of the approved scheme specified in this condition, it shall thereafter be retained.

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.