



Appeal Decision

Site visit made on 23 September 2024

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/C3810/W/24/3340678

1a Bayford Road, Littlehampton, West Sussex BN17 5HL

- 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 Rebecca Jefferies (Phoenix Property Partnership) against the decision of Arun District Council.
 - The application Ref is LU/181/23/PL
 - The development proposed is for the change of use from a dwelling to a 4 bed HMO.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have used the description of development given on the Council's Decision Notice
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to Paragraph numbers are to this version.

Main Issues

5. The main issues in this appeal are:
 - the effect of the proposal on the character of the area; and,
 - flood risk.

Reasons

Character of the area

6. The proposed two-storey HMO would be located at 1a Bayford Road which forms part of an established residential and mixed-use area in central Littlehampton next to a range of shops and services.

7. To the north of New Road, Bayford Road has a row of modest terraced properties on either side, some of which are recorded by the Council to be in multiple occupation. The road has restricted day-time parking to the front and trolley-type refuse bins for use by the dwellings that open directly onto the pavement on the western side.
8. The Council asserts that the proposal would change the use of a family dwelling and hence erode the balance of the housing types in Bayford Road and across River Ward. Its opinion is reinforced by the findings of the Building Research Establishment (BRE) (2022) report, which found that River Ward has the second highest concentration of HMOs in the district.
9. Moreover, the Council has concerns that there would be intensified activity associated with the proposal. For example, but not limited to; an increase in car-parking along Bayford Road, cluttered pavements associated with additional refuse bins, and the parking of cycles to the front of the dwellings by future occupiers or their visitors. In addition, that there would be general disrepair associated with the property in the absence of a singular responsibility for its day-to-day upkeep.
10. However, in the context of high housing demand for all types of dwellings, particularly in an urban environment, I recognise that HMOs can make an important contribution to housing provision. Moreover, at my early morning, post commute site visit there was adequate parking spaces available to the front of the dwellings on Bayford Road. Furthermore, refuse bins were tidily arranged to the front of the neat looking dwellings on the western side of the road as part of a typical urban environment. Cycle parking could be secured by condition to the car-free proposal.
11. Overall, I conclude that the addition of one HMO, to the relatively small number of multiple occupied dwellings in this very specific location on Bayford Road, would not erode the housing type balance of River Ward and accordingly, that the character of the area would be preserved.
12. As such, the proposal would accord with to Policies D DM1 (1) and H SP4 (a) of the Arun District Council Local Plan 2011-2031 (2018) (ALP) which is clear that proposals should contribute to the creation of sustainable, inclusive and mixed communities, and the Framework when read as a whole.

Flood risk

13. Notwithstanding the appellants submitted flood appraisal dated February 2024, the appeal site is located within Flood Zone 3. Hence, while I note the appellant's commitment to register the scheme with the Environment Agency's (EA) flood line alert/warnings direct service and to provide a flood warning and evacuation plan, there can be no doubt without adequate mitigation that this 'more vulnerable' site has a high probability of flooding, including the risk of internal flooding.
14. Moreover, while the site is not 'undefended', existing flood defences, whether adequately maintained or not, cannot be relied upon as full mitigation against unexpected 'over-topping' by waves or other sudden flooding or extreme events, particularly in the context of climate change.

15. As a result, the intensification of the use of the dwelling as an HMO would lead to an increased risk to life. This would be particularly the case for those sleeping in the ground floor bedroom should an unexpected event occur. Furthermore, even if those occupants were able to flee to the first-floor level, the size of the proposed communal refuge area would be woefully inadequate for the displaced occupants of the ground floor, particularly during longer periods of use when awaiting rescue or for the flood to subside. The benevolence or the availability of others in the property in such situations cannot be relied upon as a suitable alternative. As such, the appellants suggested condition in respect of internal access to the first-floor refuge would not be adequate mitigation.
16. For these reasons, being mindful of the EA's concerns and taking a precautionary approach, I conclude that the proposal would result in an unacceptable risk to life.
17. Therefore, the proposal does not meet the aims of Policy W DM2 of the ALP and Section 12 of the Framework which says, amongst other things, that development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Other Matters

18. The appellant has brought to my attention a number of schemes¹ in support of her case. However, notwithstanding the Council's confirmed Article 4 directive in January 2023 in respect of the removal of permitted development rights for the change of use from a dwelling house to an HMO in River Ward, those schemes relate to different property layouts, uses and refuge arrangements altogether than the proposal before me. Therefore, while noted, I give these schemes little weight.
19. The Council has a recorded housing land supply shortfall. As such, Paragraph 11 (d)(ii) of the Framework is normally engaged. However, Footnote 7 related to the same Paragraph of the Framework protects certain assets and areas, including areas at risk of flooding. Therefore, this is a clear reason for refusing the development as set out above. Accordingly, I have had no need to give the matter further consideration.

Conclusions

20. Whilst I have found in favour of the appellant on the first main issue, this does not justify the harm identified on the second main issue. The proposed development would conflict with the adopted development plan in respect of the second main issue, and there are no material considerations indicating a decision otherwise than in accordance with it.
21. For the reasons given above I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR

¹ LU/13/21/PL, LU/84/21/PL, APP/C3810/W/23/3322316, APP/C3810/W/23/3322319 and APP/C3810/W/18/3192887