
Appeal Decision

Site visit made on 28 January 2025

by **D R McCreery MA BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 February 2025

Appeal Ref: APP/T1410/W/24/3356394

14 Rylstone Road, EASTBOURNE, East Sussex, BN22 7HH

- 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 Ms Rachel Barber (Star Property) against the decision of Eastbourne Borough Council.
 - The application Ref is 240288.
 - The development proposed is change of use from residential dwelling (Use Class C3) to form a 7 person House in Multiple Occupation (HMO) (Sui Generis Use).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Applications for planning permission must be determined in accordance with the development plan for the area unless material considerations indicate otherwise. I have considered the development plan as a whole, including the policies of relevance to the main issues in the Eastbourne Core Strategy (Core Strategy) and Borough Plan (Borough Plan). The National Planning Policy Framework (the Framework) is a material consideration. Paying regard to the nature of the proposal and main issues I am satisfied that the update to the Framework in December 2024 presents no issues for the appeal that may affect the outcome.
3. I have considered the appeal on its own merits without regard to any work already carried out that may, or may not, be associated with the proposal.
4. Although submitted after the Council's decision, I have paid regard to the Appellant's drawings showing additional details about the bedrooms and a potential location for cycle and waste storage. I am satisfied that no party is materially prejudiced by doing so.

Main Issues

5. The main issues are:
 - a. Whether the proposal would create acceptable living conditions for occupants.
 - b. Whether the proposal encourages sustainable methods of transportation when particular regard is paid to cycle storage facilities.
 - c. Whether acceptable provision is made when regard is paid to refuse storage.

Reasons

Living conditions

6. The Council have expressed concerns about the standard of accommodation provided by four of the seven bedrooms, with particular regard to natural light and outlook. They do this without reference to any particular guidance or policy on detailed standards for HMOs.
7. The Council's officer report is brief and non specific about particular bedrooms of concern, to such an extent that it unclear from the evidence and an examination of the property which ground and first floor rooms are being referred to. Considering the outlook and general sense of light to these spaces, I am satisfied that they provide an acceptable standard of living accommodation.
8. Turning to the basement rooms, the lower ground floor location limits the amount of light to the spaces and the quality of the outlook. The bedroom to the front of the house gets light primarily from a lightwell, with three windows formed in a bay around it. While there is no outlook to speak of, the bay is effective in bringing light into what is a good sized bedroom space. Weighing these matters up, an acceptable standard of accommodation is provided to front basement room.
9. The rear basement room is smaller than the front room. It is served by a single smaller window with obscured glazing that, when open, results in close and direct intervisibility with a communal space across the external courtyard. The size of the window and position onto the courtyard limits the natural light to the space. The need for obscured glazing to achieve privacy limits outlook. Coupled with the size of the room itself, these factors create sub-standard living conditions.
10. While the planning history and the comments of the parties are informative, the lawful use of the property has not been formally established (although I note an application for a Lawful Development Certificate has been submitted to the Council). I also have limited substantiated evidence on whether an HMO could lawfully operate from the site by utilising permitted development rights or by other means. Consequently, the presence or otherwise of a fallback position is not a consideration deserving of material weight. Even if it were, the evidence does not demonstrate that the fallback would be less desirable in planning terms than the proposal, particularly given my concerns with the rear basement room.
11. I have paid regard to the Appellant's comments about the applicability of other regulatory regimes, including the Building Regulations and licencing. Specifically in relation to glazing, the Appellant acknowledges that the standard quoted from the regulation is a guide and is utilised for building control purposes. Its appropriateness in the context of an HMO is not demonstrated by the evidence.
12. In reaching a view on this issue I have paid regard to the standard of accommodation as a whole to arrive at a rounded view on living conditions. This includes the availability and quality of communal spaces outside bedrooms, which appears adequate. I have also paid regard to the Appellants evidence, including drawings setting out the size of windows and spaces.

13. Nevertheless, the deficiencies relating to the rear basement room are such that the proposal creates unacceptable living conditions for occupants. There is conflict with the development plan for the area, including Policy B2 of the Core Strategy and HO9 of the Borough Plan which refer to, amongst other things, protecting the amenity of future residents and providing an acceptable standard of accommodation.

Cycle and refuse storage facilities

14. The Appellant's additional drawing illustrates capacity within the site to accommodate cycle and waste storage. As this detail was not before the Council at the planning application stage I have treated it as illustrative. Nevertheless, the additional drawing demonstrates a reasonable prospect of acceptable storage being secured in line with the Council's suggested conditions.
15. For these reasons, subject to conditions, the proposal encourages sustainable methods of transportation when particular regard is paid to cycle storage facilities and makes acceptable provision when regard is paid to refuse storage. In this respect the proposal accords with the development plan, including policies D8 and D10A of the Core Strategy and Policies TR6 and UHT1 of the Borough Plan which aim to, amongst other things, reduce dependency on the private car, provide adequate facilities for cyclists, and achieve a high quality environment.
16. Although referenced in the reason for refusal the relevance and conflict with Policy NE9 of the Borough Plan is not demonstrated by the Council.

Conclusion

17. The proposal would not create acceptable living conditions for future occupants. There is conflict with the development plan for the area that amounts to conflict with the plan as a whole. There are no material considerations (including the Framework) to indicate that a decision should be taken other than in accordance with the development plan.
18. For the above reasons, and having regard to all other matters, the appeal is dismissed.

D R McCreery

INSPECTOR