



Appeal Decision

Site visit made on 8 January 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/T1410/W/24/3345877

113 Pevensey Road, Eastbourne, East Sussex BN22 8AD

- 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 Nicola Dryden of Egmont Properties Ltd against the decision of Eastbourne Borough Council.
 - The application Ref is 240143.
 - The development proposed is Change of use from Commercial, Business and Service (Use Class E) to 3no. HMO units (13no. bedsits) (Use Class C4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme; What is considered by the Inspector should be essentially the same as was considered by the Council and interested parties at the application stage. Any amended plans provided during an appeal must be considered in the context of whether they involve a "substantial difference" or a "fundamental change" to the application, and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
3. The appellant has provided a revised ground and intermediate floor plan (the revised plan)¹ clarifying the relationship between the edge of the appeal site and the proposed refuse and recycling store, and also showing different cycle parking facilities to those originally considered by the Council. The decision notice cites insufficient information in both respects and, as such, the amendments relate to an important consideration in the appeal.
4. At the same time, it is common practise for permission to be granted subject to conditions requiring subsequent agreement on these matters. The Council has not objected to the revised plan. Its inclusion from the outset in the appeal has allowed interested parties the opportunity to comment. Overall, I do not consider the revisions to comprise a substantial difference or fundamental change to the application plans and, as such, have considered them as part of the appeal.
5. Since the determination of this application a revised National Planning Policy Framework (the Framework) has been published. The main parties have been given the opportunity to comment, and I have considered the revised Framework in my decision.

¹ Drawing Number 06 A

Main Issues

6. The main issues are whether the proposed development would:
- provide acceptable living conditions for future occupiers with particular regard to outlook, light, internal layout, and privacy;
 - result in a harmful loss of business floorspace; and
 - include adequate provision for cycle storage, and refuse and recycling facilities.

Reasons

Living Conditions

7. The appeal site (the site) includes a two-storey building in an area characterised by a mix of commercial and residential uses. It is proposed to change the use of the site to 3 Houses in Multiple Occupation (HMOs). These HMOs (Units 1, 2, and 3 respectively) would be comprised of 13 bedsits in total.

Bedsits 1 and 2 of Unit 2

8. Bedsit 1 of Unit 2 would rely on two windows in the eastern elevation for natural light and outlook. These windows face onto a narrow alley some 1m wide which separates the appeal site from the rear boundaries of three-storey, terraced townhouses on Seaside, the A259 (the townhouses).
9. The rear boundaries of the townhouses are mainly marked by fences some 1.8m tall, beyond which are open residential gardens. The three-storey elements of the dwellings on Seaside are some 13m away from the windows. The effect of this arrangement is that the windows would receive very little direct sunlight, and a restricted amount of daylight. The outlook from the windows would be poor, comprising a direct view of the rear boundaries over a very short distance. These features would combine to result in an unacceptably oppressive and dispiriting environment for occupiers.
10. Furthermore, whilst Bedsit 1 would satisfy the volumetric floorspace requirement in the Council Standards for Houses in Multiple Occupation document (the HMO guidance) the layout would nevertheless result in most of that floorspace being used for circulation between the entrance, kitchenette, ensuite, and bed; the space left would be so limited as to preclude the creation of a comfortable seating space to read or watch television. This would unacceptably undermine future occupiers' ability to rest and relax in the bedsit. The proposed communal area would be shared with individuals potentially unknown to the occupants of Bedsit 2 and, as such, not provide an adequate alternative.
11. The only external opening in the main area of Bedsit 2 of Unit 2 would be a door, opening onto a small, enclosed courtyard. The plans do not specify whether the door would be glazed. If not, Bedsit 2 would have no natural light when the door was closed, making living conditions unacceptable. As such, it appears reasonable to presume the door would be glazed, and I proceed on that basis; The glazed door would be the only source of natural light to Bedsit 2. Parts of that bedsit would be over 5m away from that source, with the furthest part of the kitchenette over 6m away. As a result, parts of the bedsit, including one used for cooking and, as such, likely to be in regular use, would have poor levels of natural light.

12. In addition, to naturally ventilate the main area an occupant would have to open the door. Thereafter, even if the gate between the alley and the courtyard was secure, the occupants of Bedsit 3 would be able to access Bedsit 2. This would significantly erode the sense of security for occupiers of Bedsit 2, likely leading to them locking the door at night even in the height of summer. Furthermore, and whilst not a point raised by the Council, I find that even if the glazed door were locked, the occupants of Bedsit 3 could see through it directly in to Bedsit 2. Overall, the arrangement would create an unacceptable environment in Bedsit 2, harmfully lacking in light, privacy, and natural ventilation. Whilst the lack of privacy could be addressed by the door being obscure glazed, that would have significantly harmful effects on outlook, and is not an acceptable solution.

The communal area for Unit 2

13. Whilst of the requisite size as per the HMO guidance, the communal area for Unit 2 would have no external openings and, as such, no natural light or ventilation. This would create an unacceptably dark, oppressive environment, discouraging of social interaction to the detriment of occupiers of the unit.
14. The appellant contends that there is no policy requirement for the communal space to have access to an outlook or windows, but I see no reason why the proposed HMOs should be exempted from the requirements in Policy B2 of the Eastbourne Core Strategy (2013) (the CS) and Policy HO9 of the Eastbourne Borough Plan (2003) (the BP) that all schemes protect the residential and environmental amenity of future residents, and provide an acceptable standard of accommodation.
15. My attention has been drawn to an appeal in which a communal living space with no openings was found, whilst not ideal, nevertheless acceptable² and to a previous decision of the Council in which, the appellant contends, a comparable arrangement was approved³.
16. I do not have the pertinent plans before me, but it is nevertheless clear that whilst the inner living room in the appeal scheme did not have windows, it did have the benefit of borrowed light. Furthermore, the scheme had useable external communal spaces available to all of its occupants, and an alternative communal area in the form of a shared kitchen. There is no suggestion the kitchen lacked natural light. The cited appeal scheme is markedly different to the one before me and, as a result, I attach minimal weight to it.
17. Regarding the cited permission, the provided floor plan excerpt does not show me the arrangement of the building beyond the door to the kitchen / dining space. I cannot be certain that it does not benefit from borrowed light therefore, or that it is the only communal living space in that development. I have no evidence that the scheme is comparable to that before me, and I attach minimal weight to it as a result.

² Appeal Ref: APP/F4410/W/20/3262009.

³ Application ref: 230471.

Cycle parking near Bedsits 2 and 3 of Unit 2

18. I will address the issue of cycle parking below, but for the purpose of assessing living conditions, I find that the revised plan addresses the Councils' concerns over the effect of cycle parking on the amenities of Bedsits 2 and 3, and that occupiers of those bedsits would not be unacceptably affected by cycle parking.

The communal area for Unit 3

19. Unit 3 contains 4 bedsits and a communal room with an internal floor area of 7.4m². The Council cites this as inadequate but provides no further details. The HMO guidance does not provide minimum standards for communal areas. It does require that a house shared by 4 occupants have at least a 6.5m² kitchen. However, I do not find that a reliable guide for communal room sizes, as it applies to kitchens without dining facilities, which are inherently more functional than social. I have assessed the proposed communal room in the absence of formal space standards.
20. The communal room would be well served by natural light and ventilation and have reasonable outlook. Whilst it is likely washing and drying facilities would be stored therein as shown on the plans, there would remain space enough for intermittent social interaction which, given the independent way of living inherent in an HMO, would be adequate.

The previous permission

21. My attention has been drawn to a previous permission at the site⁴ in which prior approval was granted for it to change use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) with the creation of 2 No 2-bedroom flats and 1 No 4-bedroom flat (the previous permission). The flats would rely on much the same openings in the building as the bedsits would for light, outlook, and ventilation. The appellant contends that an inconsistent approach has been taken in respect of living conditions for future occupiers of the site.
22. Furthermore, the Council has not contested the appellants assertion that the previous permission has been commenced and based on the evidence I have no reason to doubt that it has. As such, it is reasonable to presume that the previous approval would be utilised if this appeal were to fail.
23. In comparing the previous permission with the appeal scheme, bedrooms 1 and 2 would be laid out differently to Bedsit 1 and 2, in that bedroom 1 has no dividing internal wall and bedroom 2 does not extend as far from the door. The layout in the previous permission makes better use of natural light, therefore. Moreover, occupiers of Bedsits 1 and 2 would likely spend far more of their leisure time in their bedsits than occupiers of Flat 2 would spend in their bedrooms, as the former is an HMO whilst the latter is laid out as a family home with a spacious living area. Whilst the outlook from bedroom 1 would be the same as from Bedsit 1, occupiers of the former would enjoy the outlook from the living room windows in Flat 2, mitigating that harm.
24. Any impingement on privacy for occupiers of bedroom 2 would be caused by members of the same household using the courtyard, rather than unrelated

⁴ Application Ref 230557.

persons as in the appeal scheme. That would significantly mitigate the concern and make it far likelier the door would be left open for ventilation.

25. Given the above, I do not consider that an inconsistent approach has been taken to decision making. Moreover, the completion of the previous permission would not result in the same or worse harm to living conditions for future occupiers of the site than the appeal scheme. Therefore, I attach minimal weight to the prospect.
26. Taking account of everything set out above, I have found that occupiers of Bedsits 2 and 3 of Unit 2 would not be unacceptably affected by cycle parking, and that the communal area for Unit 3 would be adequately sized. Even so, the proposed development would not provide acceptable living conditions for future occupiers with particular regard to outlook, light, internal layout, and privacy. As such it would conflict with Policy B2 of the CS and Policy HO9 of the BP where they require schemes to protect the residential and environmental amenity of future residents and provide an acceptable standard of accommodation.

Business Floorspace

27. BP Policy HO9 states that the change of use of non-residential premises to residential use will be permitted subject to a clear demonstration that the premises are redundant for continued commercial and/or business use. No evidence of commercial redundancy has been supplied.
28. However, the previous permission, which allowed the loss of all commercial floorspace at the site, has been implemented. As such, and notwithstanding the description of development provided in the application, the proposed development would not, in itself, result in any loss of business floorspace and I find no conflict with Policy HO9 as a result.

Cycle Storage

29. CS Policy D8 requires that development be assessed based on compliance with cycle parking standards. The delegated officer report states that East Sussex Highway guidance advises one cycle parking facility per bedroom should generally be provided within residential development. I have no evidence as to the status of that document, but the appellant has not advanced any argument that a lower level of provision should apply. Based on the aim of Policy D8 to promote cycling, anticipating one cycle space per bedsit is appropriate.
30. The revised plan shows a total of 9 cycle parking spaces, 4 less than required to provide one space for each bedsit. Moreover, the proposed arrangement would require cycles to be carried up four steps from the street, then through a tight turn beyond the main entrance. Thereafter they would be stored in racks in a narrow internal hallway, where manoeuvring a bike around would be difficult. The amended plan shows stored cycles very tightly packed together, so much so that the handlebars of each appear to over sail those of the next. Given this, and the proximity of walls around some of the racks, it is not clear that each bike could be secured, a priority given the communal nature of the hallway. Overall, the proposed arrangement would not make adequate provision for cycle storage within the site.
31. That said, BP Policy TR6 allows commuted payments for provision of off-site cycling infrastructure improvements where appropriate cycle parking cannot be

provided on site. No argument has been advanced by the Council to show that such an approach would be inappropriate in this instance. As off-site provision is within the scope of the relevant policies, I see no evidence of conflict between the development plan and the appeal scheme in respect of cycle storage.

Refuse and Recycling

32. The proposed development includes an enclosed storage area for refuse and recycling units, accessed via gates facing the pavement on Pevensey Road. The Council has raised no objection to this arrangement save for the fact the gates may overhang the pavement when open. The revised plan addresses this concern and, in the absence of further comment from the Council, I find no reason to consider the proposed refuse and recycling facilities anything other than compliant with BP Policy UHT1 and CS Policy DM10a, in that it meets the needs of pedestrians and ensures accessibility.

Other Matters

33. The statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The site is within the Town Centre and Seafront Conservation Area (the CA), in Character Area 2 as set out in the Draft CA Appraisal (2017) (the appraisal). Pevensey Road is one of a number of residential streets laid out in a formal pattern in the 1860s. Houses often feature bay sliding sash windows and stucco with moulded detailing. Insofar as it relates to the appeal, the significance of the CA is in the street plan and distinctive hierarchy of streets, demonstrating a clear and recognisably planned layout from the 19th century, and the architectural detailing of buildings therein.
34. The Council describe the appeal site as having been significantly extended at the cost of much of the character of the building, though first floor arched sash windows and roof form are cited as remaining architectural points of note. The appraisal does not consider the site to make any positive contribution to the CA. I see no reason to view matters any differently.
35. The proposed development would include alterations to the ground floor front elevation and the erection of a new front boundary. Very limited design details have been supplied. However, the alterations would essentially comprise the replacement of existing plastic windows and a utilitarian access ramp, both of which are unsympathetic to the site and the CA. On that basis, and given that final design details could be controlled through a planning condition should permission be granted, I find the proposed development would have a neutral effect on the CA, and at least preserve its character and appearance.

Planning Balance

36. I have found that the proposed development would result in unacceptable living conditions for its future occupiers with particular regard to outlook, light, internal layout, and privacy, resulting in conflict with the development plan as a whole. Policies B2 of the CS and Policy HO9 of the BP are consistent with Chapter 12 of the Framework, which requires development to create places with a high standard of amenity for existing and future users. As such, I have attached significant weight to the conflict with policies.

37. The delegated officer report indicates that the Council had a 1.4-year supply of housing land as of October 2023, and that the provisions of paragraph 11(d) of the Framework were engaged at the time the application was refused. Nothing has been provided to indicate the position has changed.
38. The scheme would deliver residential accommodation on a small to medium sized site which could be built quickly and contribute towards addressing the shortfall in housing. The site is within walking distance of services, facilities, and a range of public transport options and would make a more effective use of land. The Framework is supportive of these features. The benefits of new housing on such sites carry great weight, but they are tempered in this instance by the modest scale of the scheme and the fact the site has permission for residential use already, albeit in a different form.
39. There would be economic benefits associated with the undertaking of development and the subsequent occupation of the site. Given the scale of the proposal and the existing permission for residential development, these are modest benefits of the appeal proposal. I have no evidence that affordable homes would be provided and, whilst the Framework sets an overall aim of meeting an area's identified housing need, including with an appropriate mix of housing types for the local community, I have no evidence that there is a particular need for HMOs.
40. The degree to which the proposed development would provide unacceptable living conditions for its future occupiers would be significant, and it would not be well-designed in that respect. I therefore find that whatever the shortfall in the Council's supply of deliverable housing sites might be, the adverse impacts of the development would significantly and demonstrably outweigh the modest benefits. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.

Conclusion

41. The proposal conflicts with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Knight

INSPECTOR