
Appeal Decision

Site visit made on 28 April 2025

by **G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Appeal Ref: APP/D1590/W/24/3355870

17 Leamington Road, Southend-on-Sea SS1 2SN

- 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 Mitchell Nunn against the decision of Southend-on-Sea Borough Council.
 - The application Ref is 24/01172/FUL.
 - The development proposed is change of use of the property from a 6-bedroom house (Use Class C3) to an 8-bedroom HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw at my site visit that the change of use has already commenced, and this includes the use of the rooms within a dormer extension. I have therefore considered the appeal on a retrospective basis. The description of development only refers to a change of use and does not include the operational development of the dormer. Indeed, the appellant contends that the rear dormer window has been constructed under permitted development rights, and therefore it does not form part of the proposal. I have considered the appeal on this basis.

Main Issue

3. The main issue in this case is whether the appeal property can appropriately accommodate the two additional bedrooms.

Reasons

4. The appeal site comprises an existing two storey mid terrace property. The appeal site is not subject to any heritage designations. An L shaped dormer window has been constructed on the rear elevation and bedrooms 7 and 8 on the second floor, are contained within this roof extension.
5. The appellant asserts that the size and height of the dormer window is in accordance with the limitations of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) and that there are no other restrictions such as an Article 4 direction removing such permitted development rights. However, the Council states that the dormer window, as constructed does not satisfy the relevant permitted development criteria, in particular due to the materials used in its construction.

6. In this case, whether the dormer window extension benefits from permitted development rights under the GPDO or not is dependent on whether the materials used in any exterior work is of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
7. I note that a lawful development certificate (LDC) was granted by the Council for a development which included a loft conversion with rear dormer on 30 August 2024. I have been provided with the elevation drawing that was submitted with that application and note that the materials shown on the dormer window were identified as 'tiles to match existing as closely as possible'.
8. Whilst on site I noted that rather than tiles, timber look cladding has been used on the external walls of the dormer window extension. What has been constructed in terms of the materials used is therefore not in accordance with the details submitted with the LDC application. Therefore, based on the evidence before me there is no LDC granted for a dormer window extension using the materials as constructed. I am also not provided with any evidence that planning permission has been granted for the dormer window as constructed or any evidence that the materials that have been used are of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
9. Based on the evidence before me and my site visit, it is clear that the change of use is reliant on the additional accommodation provided by the dormer window extension. It is not suggested that the building is capable of accommodating the change of use without the dormer. Given the lack of evidence that the dormer is lawful and as it is not part of the development before me, I find that the appeal property cannot appropriately accommodate the two additional bedrooms. The appellant does not suggest that the relevant requirements set out under Policy DM8 of the Development Management Document July 2015 (DMD), which seeks to ensure high quality residential standards, could be met without the dormer in place. On this basis, I find that the development is contrary to Policy DM8 of the DMD.

Other Matters

10. The appellant asserts that the dormer window is not detrimental to the visual amenity and character and appearance of the dwelling and that given its position to the rear it is not easily seen. It is also stated that the cladding was chosen to improve the appearance and design of the dormer window. However, given the description of development, I am not able to consider the merits of the dormer window as it was not proposed as part of the planning application.
11. The Council has identified that it is not able to demonstrate a sufficient supply of deliverable housing sites and that the Housing Delivery Test is not currently being met. In such instances paragraph 11 d) of the National Planning Policy Framework (the Framework) falls to be considered. This indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. The development provides two additional bedroom spaces in an established House in Multiple Occupation in a location close to employment, services, facilities and public transport options. It is stated that the appeal property is a sustainable building which has benefits to the individual occupiers and the environment and

that the change of use would be an effective and efficient use of the appeal site. These benefits would align with the Framework objectives. It is asserted that there have been no detrimental effects on the living conditions of neighbouring residents as a result of the development and that the size of accommodation provided is acceptable. A lack of harm in these respects are neutral considerations that weigh neither for nor against the development.

13. However, the additional rooms are reliant on a dormer window extension, which based on the evidence before me, I cannot be satisfied is lawful. As a result, the change of use, without sufficient evidence to confirm the lawfulness of the dormer window extension cannot be supported. Consequently, the presumption in favour of sustainable development set out in paragraph 11 of the Framework does not apply in this case.

Conclusion

14. For the reasons outlined above, the development conflicts with the development plan as a whole and other material considerations including the Framework do not indicate that the appeal should be determined other than in accordance with it. I therefore conclude that the appeal is dismissed.

G Dring

INSPECTOR