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## Appeal Decision

Site visit made on 11 June 2025

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

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**Appeal Ref: APP/T1410/W/25/3360652**

**Boyne House Guest House, 12 St. Aubyns Road, Eastbourne BN22 7AS**

- 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 Star Property Group against the decision of Eastbourne Borough Council.
  - The application Ref is 240487.
  - The development proposed is described as 'Retrospective application for change of use from guest house HMO (Sui Generis) for 7 bedroom house of multiple occupation.'
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the change of use to a House in Multiple Occupation (HMO) in this location would be appropriate, having regard to relevant development plan policies and the standard of accommodation to be provided.

### Reasons

#### *Compliance with Development Plan Policy*

3. The Council attaches importance to retaining the stock of tourist accommodation in the town. Consequently, Policy TO2 of the Eastbourne Borough Plan 2003 (EBP) seeks to resist the loss of such accommodation within the Tourist Accommodation Area (TAA), other than in exceptional circumstances. The policy indicates that exceptional circumstances means that the continuing use of the land as tourist accommodation would not be viable and sets out 7 criteria against which this is to be judged.
4. In tandem with this, Policy TO1 seeks to ensure proposals within the TAA are compatible with tourist accommodation; and Policy HO14 specifically resists HMOs within the TAA. Subsequent support for the retention of the TAA and the protectionist approach is provided in Policy D3 of the Core Strategy Local Plan 2013 (CSLP).
5. The Council has also produced a Tourist Accommodation Retention Supplementary Planning Document 2017 (SPD). Although only guidance, it acknowledges that some tourist accommodation, in what it identifies as the Secondary Sectors, could be removed from the overall supply without causing harm. The SPD indicates that a lower level of evidence would be needed in the Secondary Sector to demonstrate that tourist accommodation is unviable. However, with specific regard to the provision of HMOs, the SPD notes that they

are a significant threat to the attractiveness of the seafront and that Policy HO14 should continue to be applied.

6. The appellant has provided some limited information on the non-viability of the tourist accommodation use at the appeal property. Even if I were to agree that the appeal site was no longer viable as tourist accommodation, an HMO use at the site would be contrary to Policy HO14 of the EBP.
7. The appellant has supplied a number of decisions which show that within the vicinity of the site a loss of tourist accommodation has been sanctioned in the past and that changes from residential use to HMOs have also been permitted. Other decisions appear to pre-date the current policies or relate to the conversion of houses to flats and so appear less relevant to the current proposal.
8. However, I am mindful that the policies, and the guidance within the SPD, while seeking to restrict the loss of tourist accommodation, do not place a complete prohibition on such losses. Consequently, some positive decisions may not necessarily be unexpected or contrary to policy.
9. In contrast, Policy HO14 is clear that HMOs are to be resisted in the TAA, regardless of whether it involves the loss of tourist accommodation. However, I have been presented with recent approvals for HMOs at Nos. 5 and 7 Marine Road, which appear to conflict with Policy HO14.
10. The justification for both these approvals was that Marine Road neither comprised a significant amount of tourist accommodation nor did it provide tourist attractions or a significant thoroughfare for tourists. The term 'significant' was not defined in the officer reports. In both cases the issue of viability was not addressed but the provision of additional housing was taken into account in the final balance.
11. However, I have no details as to whether or not St Aubyns is a 'significant' thoroughfare for tourists. It connects Marine Parade to Seaside, so is perhaps more likely to be a route tourists would take than say Marine Road. Some of the shops/uses on Seaside near to St Aubyns would no doubt attract some tourists seeking food/drink/supplies.
12. There is also some existing tourist accommodation within St Aubyns, including opposite the appeal site. I have no information as to how this compares to Marine Road at the time the decisions were made on Nos. 5 and 7.
13. In light of the above, it is difficult to draw any meaningful comparisons between these previous decisions and the current case. Therefore, I am unable to give them anything more than limited weight in my decision.
14. Taking all of the above into account, I find that, given the site's location, an HMO at the appeal site would be contrary to Policies TO1, TO2 and HO14 of the EBP and Policy D3 of the CSLP which, amongst other things, seek to resist the loss of tourist accommodation and resist the provision of HMOs within the TAA.

#### *Living Conditions*

15. The Council identifies the first-floor rear bedroom as being of sub-standard quality. As I saw on my site visit, the bedroom is small and given its shape, there is really only one place for a single bed to go. With most of the remaining floorspace having

to be given over to circulation and access, this would undermine the ability of any future occupant to comfortably rest and relax in the room.

16. There would be a separate living room and dining room on the ground floor. However, this is a communal area and so does not provide a direct alternative to the private space which a bedroom would offer.
17. The appellant indicates that the room is only marginally below the required standards. Whilst neither the Council's Prescribed Standards for Houses of Multiple Occupation nor the Nationally Described Space Standards (NDSS) are development plan policy, and the NDSS is for new houses rather than for HMOs, they nevertheless provide helpful guidance. There is no particular reason put forward by the appellant as to why these minimum standards should not be met.
18. Furthermore, in my opinion, an assessment for planning purposes cannot always, be based solely on the minimum size of the accommodation that can be provided. In order to meet reasonable expectations and ensure a good standard of living environment, qualitative factors such as the shape of the room, its usability and how it would be likely to function may need to be taken into account. In this instance, based on such an assessment, as outlined above, I have found the room does not result in a good standard of living environment for future occupants.
19. The Council has not identified any development plan policies in relation to this matter but there would be conflict with the National Planning Policy Framework (the Framework) which seeks to ensure development creates a high standard of amenity for existing and future users. This is a material consideration which weighs against the proposal.

### **Other Matters**

20. There is no dispute between the main parties that the Council is unable to demonstrate a 5-year supply of housing land. The Officer Report indicated a 1.8-year supply whereas the appellant points to the Eastbourne Authority Monitoring Report 2023/2024, published December 2024, which indicated a 1.4-year supply. There is no reason to suppose the situation has noticeably improved in the interim and even taking the Council's figure, the supply is significantly below that expected by national policy. This weighs in favour of the proposal.
21. It is suggested that the Council's policies should be considered out of date given their age. However, Paragraph 232 of the Framework clarifies that development plan policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.
22. The appellant does not indicate in what way the policies would be inconsistent with the Framework. I note that one of the Framework's key overarching objectives is an economic one, intended to help build a strong, responsive and competitive economy. The Framework also seeks to secure developments which, amongst other things will improve economic conditions of an area. The development plan policies identified above would generally be consistent with the Framework's approach in this regard.
23. The first floor rear bedroom was unoccupied at the time of my site visit although it is suggested that previous occupants have not raised concerns as to the room's

size. However, occupancy of guest house rooms would normally be for short stays where the size of the room and need for private space are less of a priority. Even if a previous resident had occupied the room as part of the HMO use and raised no concerns, I must have regard to the long term and ensuring that living conditions for all potential future occupiers are of a good standard.

24. Interested parties refer to the surrounding area as being one of HMO concentration, and subject to negative cumulative impacts of such development, such as increased noise and disturbance. However, the Council's objection is not based on perceived HMO stress in the area, and I have no substantive information on the matter to come to a different conclusion.

### **Planning Balance**

25. The proposal seeks to provide substandard HMO accommodation within a location where the development plan seeks to resist such uses. Collectively, I give this conflict significant weight.
26. Due to the lack of a five-year housing land supply and because there are no policies in the Framework which offer a strong reason for refusal, Paragraph 11(d)(ii) of the Framework is engaged.
27. The proposal would make a positive, albeit modest contribution towards boosting the supply of housing accommodation in the area. It would also result in some economic benefits, which would be on-going upon occupation. There may also be some social benefits too. The Framework highlights the importance of ensuring an adequate supply of housing sites and I am mindful that the accommodation adds variety and that the site is in a sustainable location. Given the scale of the proposal, I give these considerations moderate weight as benefits.
28. Weighed against these are the harms that I have identified. The need to support economic growth and to ensure a high standard of amenity for existing and future users is perennial and in direct compliance with the Framework. Indeed, there is nothing in the Framework which indicates that the provision of housing should be at the expense of living conditions of existing and future users. Accordingly, I ascribe substantial weight to the harms arising from the development.
29. Consequently, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and this indicates permission should not be granted.

### **Conclusion**

30. I have found that the appeal proposal conflicts with the development plan when taken as a whole. While there are some benefits associated with the scheme, neither they nor any of the other matters before me, including the contribution which the appeal proposal would make to the supply of housing in the local area, outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

*Stewart Glassar*

INSPECTOR