



Appeal Decision

Site visit made on 30 January 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Appeal Ref: APP/W1715/W/23/3327259

29 Twyford Road, Eastleigh, Hampshire SO50 4HD

- 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 Mr Lewis Bowers against the decision of Eastleigh Borough Council.
 - The application Ref F/23/94920, dated 22 March 2023, was refused by notice dated 26 May 2023.
 - The development proposed is the change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Lewis Bowers against Eastleigh Borough Council. This is the subject of a separate Decision.

Preliminary Matters

3. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. However, as the Framework's policy content insofar as it relates to the main issue has not been significantly changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

4. The main issues are the effect of the proposed change of use on the living conditions of:
 - existing and future occupiers of the property, with particular reference to the communal amenity space; and
 - existing and future occupiers of the property and occupants of neighbouring properties, with particular reference to noise.

Reasons

Communal amenity space

5. The appeal property comprises single occupancy rooms for six people. The proposed change of use of the property would increase the number of bedrooms to ten. No external alterations are proposed, therefore the existing

- and future occupiers would be required to share the existing communal amenity space.
6. The communal amenity space is located at the rear of the property, between the rear elevation and an area of parking. It does not extend the full width of the property, being separated from the site boundary with Shakespeare Road by a pathway which links the property entrance to the parking area. Tall close-board fencing bounds the communal amenity space, with gated access from the side pathway.
 7. Although the Council's Quality Places SPD¹ does not refer to specific standards for communal amenity space for Homes in Multiple Occupation (HMO), it identifies that such spaces should be suitable for normal domestic activities, including sitting out and drying clothes. Despite its proximity to a range of local facilities and services, the appeal property is not located immediately adjacent to a usable recreation space, a requirement of the SPD to allow the Council to flexibly apply the guidelines.
 8. The size of the existing communal amenity space significantly limits its ability to accommodate these activities for existing and the proposed additional occupiers. The location of the inward opening gateway and the provision of a secure cycle store, as shown on the Proposed Block Plan², within the space further restricts its functionality. No further detail is provided on the application plans demonstrating how the space could be used for sitting out and drying clothes. Irrespective of the lack of a specific standard or the compliance with standards relevant to other forms of development, the small size of the communal amenity space would not be sufficient to meet the normal domestic needs of 10 people. As such, this would be detrimental to the living conditions of existing and future occupiers of the proposed development.
 9. Whilst the areas to the front and the side of the property could be used for social interaction, given the low boundary features to the pavements alongside Twyford Road and Shakespeare Road, these areas would not provide the level of privacy expected of a communal amenity space. Furthermore, as direct views between the front space and the ground floor bedrooms on Twyford Road elevation is possible, use of this area as communal amenity space would, therefore, result in an unacceptable loss of privacy for occupiers of these rooms. In the case of the side area, its narrowness and, given its orientation, lack of sunlight, limit its ability to support the normal domestic activities highlighted above.
 10. I conclude that the proposed change of use would harm the living conditions of existing and future occupiers of the property, with particular reference to the communal amenity space, contrary to Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 (the Local Plan). Amongst other provisions, this policy stipulates that new development should not have an unacceptable impact on, and where possible should enhance, the amenities of both new and existing residents. It would also conflict with the Quality Places SPD's requirement to provide a suitable amount of communal amenity space to enable normal domestic activities to be undertaken. As the Framework seeks to ensure development creates places with a high standard of amenity for existing and future users, the proposed change of use would not meet this requirement.

¹ Quality Places Supplementary Planning Document (the Quality Places SPD)

² Drawing no: PL/08 rev B – Proposed 10 Person HMO

Noise

11. The proposed change of use incorporates internal layout alterations which would result in bedrooms being positioned adjacent to or above the kitchen/family room. The number of occupants of the property would increase as a result of the proposed development which, in turn, could lead to additional noise within the property. However, any increase in noise would not be significant and could be mitigated through the provision of soundproofing or other similar measures via a planning condition, had I been minded to allow the appeal.
12. The increase in occupants would also be likely to lead to additional comings and goings to the property. However, the car parking spaces and entrance door are positioned to the rear and side of the property, away from the neighbouring dwelling of 27 Twyford Road and other dwellings nearby are located on the opposite side of Twyford Road and Shakespeare Road. Given the position of the parking, entrance and distance to nearby dwellings, any additional noise would be unlikely to exceed expected levels within a built-up area.
13. I conclude that the proposed change of use would not cause harm to the living conditions of existing and future occupiers of the property and neighbouring occupiers, with particular reference to noise. As such, it would comply with Policy DM8 of the Local Plan which permits development only where it would not lead to a loss of amenity through unacceptable noise, amongst other forms of pollution. It would also accord with the Framework which supports the creation of places with a high standard of amenity for existing and future occupiers.

Other Matters

14. My attention has been drawn to the recently approved change of use of the property to an eight-bed HMO³. Given this approval, there is more than a theoretical possibility that this change of use could be implemented, and I attach substantial weight to it as a fallback scenario. However, the approved scheme would provide accommodation for fewer occupiers than the proposed development and, as a consequence, the demands on the communal amenity space would be less. The proposed development, therefore, would be more harmful than the fallback scenario. As such, the fallback scenario does not weigh in favour of allowing the appeal scheme.
15. The proposed development would provide social and economic benefits from the provision of additional accommodation within an existing residential environment. However, these benefits would be small given its scale. Whilst the Framework promotes the effective use of land, this is not to the detriment of living conditions.
16. Whilst Council officers or statutory consultees may provide support to a scheme, the Council is not bound to accept this advice or recommendations.
17. Even if I were to conclude that the proposed development would not cause harm to other planning aspects, including other relevant requirements of Policy DM1 of the Local Plan such as making efficient use of land, this would be a neutral factor in my decision.

³ Council ref: F/23/95786

Conclusion

18. The proposed development conflicts with the development plan and there are no other considerations, either individually or in combination, including the Framework, that outweigh this conflict.
19. For the reasons identified above, the appeal is dismissed.

Juliet Rogers

INSPECTOR