



Appeal Decision

Site visit made on 25 February 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2025

Appeal Ref: APP/R3515/W/24/3350504

25 Civic Drive, Ipswich, Suffolk IP1 2AL

- 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 J Kerley on behalf of Inspiring Aspirations against the decision of Ipswich Borough Council.
 - The application Ref is 23/00914/FUL.
 - The development proposed is the conversion of a single dwelling to create two one-bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 and updated it on 7 February 2025. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The appeal scheme seeks retrospective permission for the development. I have therefore considered the appeal on this basis.

Main Issues

4. The main issues are:
 - The effect of the development on the supply of family-sized housing; and
 - Whether the development provides adequate living conditions for the occupiers, with particular regard to noise.

Reasons

5. The appeal site comprises a semi-detached, two-storey property. The property has a small front garden with off-street parking for up to two cars. It also has a rear garden. The lawful use of the property is a three-bedroom dwelling, but it has been sub-divided into two self-contained, one-bedroom flats.

Supply of Family Housing

6. Policy DM19 of the Ipswich Borough Local Plan Core Strategy and Policies Development Plan Document Review, adopted March 2022 (the ILP) states that the conversion of houses into flats will be permitted provided that the development

would not result in the conversion of small or modest sized family houses containing three bedrooms or fewer or having a floorspace of less than 100m².

7. The appellant does not dispute that the proposal is in conflict with this policy in that it seeks to maintain a supply of small and modest family sized houses. However, they consider that there are clear reasons to depart from the policy. Firstly, they suggest that the planning permission for sub-division could be granted for a temporary period on the basis that no external works have been carried out to the property and any works undertaken internally could easily be reversed. Secondly, that there is an overriding social need for the subdivision, for which there is support in the Framework.
8. The appellant therefore suggests that the conflict with Policy DM19 could be addressed by imposing a planning condition for a temporary period. The Planning Practice Guidance¹ (the PPG) states that under Section 72 of the Town and Country Planning Act 1990 (the Act) the local planning authority may grant planning permission for a specified temporary period only. It further states that the circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. I have no evidence before me that either of these reasons apply.
9. The appellant has also suggested imposing a planning condition that would limit the occupancy of the flats to the individuals who currently reside there. However, the PPG² states that planning permission usually runs with the land, and it is rarely appropriate to provide otherwise. It further states that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.
10. In this particular case, whilst I don't dispute that there is a need to provide accommodation for people with additional needs and that there is likely to be a shortage of such accommodation within the local area, I have not been presented with any substantive evidence to demonstrate that alternative solutions have been sought and that the imposition of a personal permission would address the conflict with Policy DM19 in relation to the loss of family-sized housing. Based on the evidence before me, it has not been demonstrated that there is an exceptional need. Furthermore, even if I considered that this would address the conflict with Policy DM19 I have not been provided with sufficient information in relation to the current occupiers such that I would be able to impose a condition.
11. The appellant states that by strictly applying Policy DM19, the Council are prioritising the needs of families over the needs of those with registered disabilities. However, whilst I don't dispute that there is clearly a need for housing for people with disabilities or additional needs, this does justify the loss of other types of accommodation for which there is also an identified need.

¹ Paragraph: 014 Reference ID: 21a-014-20140306

² Paragraph: 015 Reference ID: 21a-015-20140306

12. Consequently, I therefore conclude that the proposal would result in the loss of a family-sized home within the borough for which there is an identified need. Thus, it is contrary to the Policy DM19 of the ILP which seeks, amongst other things to maintain the supply of small or modest sized family homes.

Living Conditions – Noise

13. Policy DM19(e) of the ILP requires development to provide an appropriate standard of residential amenity. Whilst the flats each have their own front door and meet the minimum required standards in terms of internal floorspace and provision of external amenity space, the flats do not meet the required standards in relation to noise transference.
14. The noise evidence submitted with the application indicates that the noise performance is lower than is required³ and the Council's Environmental Protection Officer has advised that remedial works such as the installation of independent ceilings or resilient floor coverings would be required. The appellant states that they do not have the resources to fund the required works, nor would they be able to re-house the current occupiers whilst such works take place. They state that the proposed works would cause a high level of stress to the existing occupiers.
15. Therefore, whilst I note the intentions of the appellant to providing a safe place for the occupiers to live, in the absence of the aforementioned noise mitigation measures or any alternative provision, I cannot be satisfied that the proposal would provide adequate living conditions for the occupiers, with particular regard to noise.
16. I have had regard to whether this harm could be overcome by using planning conditions to limit the occupation of the property to the current occupants, and to require the noise mitigation works to be carried out if either of the current occupants vacates the property and before it can be occupied by any other person. However, the PPG⁴ states that planning permission usually runs with the land, and it is rarely appropriate to provide otherwise. Therefore, in light of Paragraph 57 of the National Planning Policy Framework I am not of the view that such conditions would meet the tests of being necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Furthermore, they would not mitigate the harm caused to the current occupiers.
17. Consequently, I conclude that the development would provide sub-standard accommodation, which is lacking in adequate sound insulation. Thus, it would not provide adequate living conditions for the occupiers, with particular regard to noise. Therefore, it is contrary to Policies DM18 and DM19(e) of the ILP which require amongst other things, development to provide an appropriate standard of amenity and protect the quality of life of occupiers.

Other Matters

18. I understand from the evidence before me that the appeal property is rented by a charity providing social care, housing and education to people with learning disabilities. It was until the sub-division took place, occupied by two vulnerable adults living together. One of these occupants requires round the clock care

³ E1 of Schedule 1, Part E of the Building Regulations 2010.

⁴ Paragraph: 015 Reference ID: 21a-015-20140306

(provided by the appellant), the other requires only daytime care. The appellant states that it became apparent that it was no longer safe for the occupants to share living facilities and in the absence of suitable accommodation, the decision was taken to sub-divide the existing dwelling.

19. The appellant advises that the occupiers of each of the units are registered disabled. A person regarded as having a disability⁵ and sharing a protected characteristic⁶ is, therefore, likely to be affected by my decision. Accordingly, under the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, I must have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
20. In the event that permission is refused, it appears likely that my decision would necessitate the removal of at least one of the persons sharing a protected characteristic from their home. I have been advised that this person would be unable to find appropriate alternative accommodation, such that living at the appeal site is their only option. However, I have limited evidence before me of any alternatives which have been considered. Nonetheless, for the reasons set out above I find that the accommodation is wholly inadequate in providing a home that is comfortable, is fit for purpose, and meets the needs of all occupiers.
21. For these reasons I find the development to be harmful to the health and wellbeing of the occupiers, including the persons sharing a protected characteristic. I can only conclude that this harm outweighs the effect my decision will have on these persons.

Conclusion

22. For the above reasons, the development does not accord with the development plan as a whole and there are no material considerations of sufficient weight, including the Framework, which indicate that I should take a different decision other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR

⁵ As defined in section 6(1) of the Equality Act 2010.

⁶ As defined in section 149(7) of the Equality Act 2010.