
Appeal Decision

Site visit made on 21 February 2017

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th March 2017

Appeal Ref: APP/Z0116/W/16/3164572

1 Eaton Close, Fishponds, Bristol BS16 3XL

- 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 Joel Harding against the decision of Bristol City Council.
 - The application Ref 16/04900/F, dated 9 September 2016, was refused by notice dated 28 November 2016.
 - The development is change of use from HMO (Class C4) to 8 bedroom HMO (Sui Generis) together with installation of windows to the side elevation and cycle and refuse stores.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form states that the development has already been carried out. During my site visit I was able to confirm that whilst the appeal property was in use as an 8 bedroom House in Multiple Occupation (HMO), the first and second floor windows in the side elevation shown on the submitted plans had not been installed.

Main Issues

3. The main issues in this appeal are as follows:
 - Whether the development provides a suitable living environment for the occupiers, having regard to the size of the bedrooms.
 - The effect on the living conditions of occupiers of adjoining residential properties, having regard to noise and disturbance.
 - Whether the development provides adequate facilities for cycle storage and for refuse and recycling storage.

Reasons

4. The appeal property comprises a modern three storey end of terrace town house, with hardsurfaced front and rear gardens. A single storey flat roofed extension has been added to the side of the property at some stage. The property is located in a cul-de-sac of similar terraced properties, within a wider urban area consisting of dwellings of varying size, appearance and age.
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Living environment for the occupiers

5. The appeal property has eight en-suite bedrooms arranged over three floors, with a communal living and kitchen area on part of the ground floor. The submitted plans indicate double beds in each bedroom. However, some of the bedrooms, including those on the first and second floors viewed during my visit, are of very limited size and are quite restricted internally. In these rooms, provision of a single bed has left the occupiers with minimal space to accommodate basic items of furniture, other items and for general storage whilst also providing some space for access and circulation. As a result, some of the occupiers experience a cramped and constrained living environment within their bedrooms.
6. The Technical Housing Standards-Nationally Described Space Standard (THS)¹ refers to the floor area of double bedrooms being a minimum of 11.5m². From what I have been able to ascertain from the submitted plans, none of the bedrooms meet this minimum size standard and several fall well below it. I acknowledge that the THS only makes reference to internal space within new dwellings. However, I would not interpret this as suggesting that lower standards should be applied in respect of an HMO. No separate HMO standard has been published. An HMO is a form of residential accommodation and in my view the THS can therefore be afforded some weight in this appeal. I regard the failure of the development to meet the THS minimum standard in respect of the bedroom sizes as being indicative of the unsatisfactory living environment provided for at least some of the occupiers. The THS therefore reinforces my findings above.
7. Two of the smaller bedrooms also currently have no windows and the occupants therefore have no direct access to any natural light or means of ventilation. This exacerbates the restricted nature of the rooms and gives a strong sense of oppressiveness. Whilst it is proposed to install two windows in the side elevation to light these bedrooms, the windows would be obscure glazed and would thus not afford the occupiers with any meaningful outlook. No means of ventilation has been specified. As a result, the proposed windows would not assist in any significant fashion in terms of alleviating the oppressive living environment experienced by occupiers within the bedrooms in question.
8. I have also taken account of the appellant's claim that the bedroom sizes would satisfy the Council's HMO licencing standards. However, the licencing of an HMO is administered under the Housing Act. Therefore, whether an HMO licence would be obtained for the property has no material bearing on whether the sizes of the bedrooms provide an adequate living environment for the occupiers in planning terms.
9. Therefore, I find that the development has provided an unacceptable living environment for the occupiers of the appeal property. Consequently, the development does not accord with Policy BCS18 of the adopted Bristol Development Framework Core Strategy (CS), as it does not provide sufficient space for everyday activities and adaptability by meeting appropriate space standards. Moreover, the development does not accord with Policy DM2 of the adopted Bristol Local Plan-Site Allocations and Development Management Policies (LP), as it does not provide a good standard of accommodation.

¹ DCLG March 2015.

Living conditions of adjoining properties

10. I understand that the lawful use of the appeal property is as an HMO within Use Class C4. Therefore, up to six people would be able to occupy it in connection with the lawful use. Given the above and the urban location, significant levels of increased activity and associated noise and disturbance are unlikely to have arisen from the two additional occupants, compared with the lawful use. Consequently, the intensity of the use of the appeal property has not caused unacceptable harm to the adjoining residential occupiers through an excessive increase in noise and disturbance.
11. Having regard to the double bedroom layout shown on the submitted plans, there appears to be some scope for a further increase in the occupants of the appeal property in future, by the sharing of bedrooms. This would potentially have more significant effects in terms of an increase in noise and disturbance experienced by adjoining residential occupiers. However, the overall number of occupiers could have been restricted by a planning condition, if the development had otherwise been acceptable.
12. Therefore, I find that the development accords with LP Policy DM2, as it does not harm the residential amenity of the locality as a result of levels of activity that cause excessive noise to residents. Also, I have found no failure to accord with CS Policy BCS18 in this regard.

Cycle parking, refuse and recycling storage

13. During my visit I noted that a cycle shed and a storage facility for refuse and recycling had been provided in the positions shown on the submitted plans. However, both facilities were of quite modest size in comparison with the number of bedrooms at the appeal property. Therefore, and in the absence of any details to demonstrate otherwise, I cannot be sure that the facilities provided are adequate to serve the development whilst safeguarding the character and appearance of the area and providing alternative means of transport to the private car.
14. Nevertheless, provision of adequate cycle storage and refuse and recycling storage facilities could have been secured by a planning condition had the development otherwise been acceptable, subject to which the development would accord with LP Policy DM2. The provision of sufficient space for the storage of refuse and recycling containers would also accord with LP Policy DM32 and CS Policy BCS15. Further, by maximising the opportunity to cycle as opposed to use of the private car, the development would accord with LP Policy DM23, CS Policy BCS10 and CS Policy BCS13.

Other matters

15. The hardsurfaced area in front of the appeal property is capable of accommodating at least three parked cars. The parking restrictions on Eaton Close limit the ability of additional vehicles to park in the vicinity. Also, as the appeal property is in an accessible location, being within a short, level walk of local shops and services and local bus routes, it is likely that many of the occupants will not need access to a car. Consequently, in my view the existing level of off-street parking at the appeal property is adequate to serve the development.

16. The proposed side windows would be obscure glazed, thus avoiding any unacceptable overlooking of the adjoining residential properties and safeguarding the privacy of the neighbouring occupiers. The Council did not object to the development in this respect or on the matter of parking and I have not found any reason to disagree with them.

Planning balance

17. In order to meet sustainability objectives, the development should be assessed against the three, mutually dependent roles set out in the National Planning Policy Framework (the Framework) at paragraph 7–economic, social and environmental. The development has had modest economic benefits, in particular by creating short-term employment in the building industry. However, the unacceptable living environment for the occupiers does not assist in providing the supply of housing required to meet the needs of present and future generations and it has not created a high quality built environment. I attach significant weight to these matters. The adverse social and environmental impacts of the development therefore significantly and demonstrably outweigh the modest benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

18. The development does not accord with the Development Plan or the Framework and for the reasons given above I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR