



Appeal Decision

Site visit made on 16 June 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 4 July 2017

Appeal Ref: APP/F0114/W/17/3169593

10 Lymore Gardens, Twerton, Bath BA2 1AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Andrew Spear against the decision of Bath & North East Somerset Council.
 - The application Ref 16/02230/FUL, dated 6 May 2016, was refused by notice dated 12 January 2017.
 - The development proposed is a change of use from C3 (dwellinghouse) to C4 (House in Multiple Occupation).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from C3 (dwellinghouse) to C4 (House in Multiple Occupation) at 10 Lymore Gardens, Twerton, Bath BA2 1AQ in accordance with the terms of the application, Ref 16/02230/FUL, dated 6 May 2016 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Floor Plan
 - Site Location Plan

Preliminary Matters

2. The Council has passed an Article 4 direction removing the permitted development rights for the proposed change of use set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. As a result planning permission is required for the development proposed.
3. The Council has referred to Policy H2 of the emerging Placemaking Plan (PP) in its written evidence. The PP is currently at an advanced stage and I am aware from other appeals I have determined in the area that its adoption is expected in the very near future. In view of the fact that there are no outstanding objections to Policy H2, in accordance with paragraph 216 of the National Planning Policy Framework, I afford it significant weight in the determination of this appeal.

Main Issues

4. The main issues are the effect of the proposed development on:

- (i) the character of the surrounding area; and
- (ii) highway safety with particular regard to parking.

Reasons

Character

5. The appeal site is a two storey mid-terraced property on the eastern side of Lymore Gardens, a residential street consisting of a number of attractive two storey stone dwellings located within the designated World Heritage Site. The proposal would involve a change of use from a 4 bed dwelling to a 4 bed House in Multiple Occupation (HMO). No physical alterations would be proposed to the exterior of the building.
6. Policy HG.12 of the Bath and North East Somerset Local Plan (LP)¹ permits development involving the sub-division of existing dwellings provided it is compatible with the character of the surrounding area and would not have a detrimental effect on the mix of accommodation available in the locality. Similarly, PP Policy H2 restricts such development in areas of high concentration of existing HMO's or where it is incompatible with the character and amenity of existing uses.
7. Further guidance can be found in the Council's Supplementary Planning Document on HMO's in Bath (2013) which sets out the Council's approach to the distribution and dispersal of HMO's. It encourages an appropriately balanced housing mix across Bath by setting out a two stage test to determine whether proposals for a change of use to a HMO should be permitted. Firstly, it requires an assessment of whether the property is within an area identified as having a high density of HMO's. If so, it then requires a second stage assessment of whether the density of HMO's within a 100 metre radius exceeds the threshold.
8. In this case, although the area falls within 50 metres of a Census Output Area in which HMO properties represent more than 25% of households, it would nevertheless be located in an area where HMO properties represent less than 25% of households within a 100 metre radius of the site. As such, it passes the second stage test and satisfies the guidance set out in the SPD in terms of acceptability.
9. However, concerns have been expressed regarding the over intensification of HMO's in some parts of the city. While I accept that such over intensification can impact negatively on the character of an area, it is clear from the SPD that it is with this in mind that the two stage test set out above has been developed. In the absence of any evidence that would indicate that there are any particular issues in this area with regard to HMO density, I am not persuaded that there would be any material harm to the area's character.
10. While I note that the Council's policy regarding HMO's is currently under review, pending the outcome of such a review, it is against existing policy and guidance that applications should be determined.

¹ 2007.

11. Accordingly, I find that the proposal would not result in an over intensification of HMO use or be detrimental to the character of the surrounding area. As such, I find no conflict with LP Policy HG.12, emerging PP Policy H2 or the guidance set out in the SPD.

Highway Safety

12. The appeal site is located in a high density residential area where the majority of parking is on-street. LP Policies T.24 & T.26 require, amongst other things, new development to provide an appropriate level of parking² and to ensure that they do not have a detrimental impact on highway safety. However, neither of these Policies seeks impose any fixed parking levels for HMO's.
13. Like most other properties in the street, the existing property has no off-street parking and relies on the availability of on-street spaces. During my site visit it was clear that, while parking was limited and in high demand, there were a number of spaces available in close proximity to the appeal property. In addition, I observed no examples of illegal or inconsiderate parking. While this may not be indicative of the parking levels during peak times, there is nothing which would indicate that there are any significant safety issues resulting from parking levels along this stretch of road.
14. Furthermore, the site is situated in a sustainable location, offering a range of sustainable travel opportunities to future occupiers. While I note the concerns set out in the Council's highways statement regarding the potential for increased car ownership which might result from the proposal, I have seen no robust evidence which would indicate that there would be any actual increase in parking need resulting from the proposed development. Indeed, there is every indication that rented accommodation generally has a lower parking need when compared to owner occupier households in dwellings of a similar size³. Although the Council has suggested that this is not the case locally, it has provided no evidence to substantiate this assertion. I do not, therefore, consider there would be any significant increase in demand when compared to that which presently exists.
15. Moreover, while I accept that longer term residents will be more familiar with any limitations on parking availability, I am not persuaded that occupiers of HMO's are more likely to park illegally or inconsiderately with little affinity or sympathy for local residents. Likewise, while I acknowledge the Council's concerns that further demand being placed on nearby parking could impact negatively on the amenity of neighbours and businesses, the Council have other means of regulating such parking and I am not persuaded that the proposal would have any material impact.
16. Consequently, for the reasons set out above, I conclude that the proposal would not result in any material increase in parking demand and, as such would not, in itself, have any significant effect on either highway safety or neighbouring amenity. Accordingly, I find no conflict with LP Policies T.24 & T.26 which, amongst other things, seek to guard against such harm.

² Having regard to the Council's adopted parking standards and the availability of public car parking in the vicinity of the site.

³ Residential Car Parking Research, DCLG May 2007.

Other Matters

17. I have had regard to the concerns of local residents which were submitted at the application stage. Those which relate to the impact on parking, highway safety and the mixture of property types have been taken into account above. Furthermore, the others matters referred to including need, increased litter and the general management are not material planning considerations and I note do not form part of the Council's reasons for refusal. Accordingly, I do not consider they are sufficient to justify a refusal of planning permission.
18. Although the appeal site is located within a designated World Heritage Site, there is nothing to suggest that the proposal would have any negative impact in this respect.

Planning Conditions

19. I have had regard to the various planning conditions that have been suggested by the Council. In addition to the standard time condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty.

Conclusion

20. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR