
Appeal Decision

Site visit made on 11 December 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 12 January 2018

Appeal Ref: APP/F0114/W/17/3179461
7 Red Lion Lane, Bath BA2 2FN

- 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 Stephen Grimes against the decision of Bath & North East Somerset Council.
 - The application Ref 17/01736/FUL, dated 10 April 2017, was refused by notice dated 21 June 2017.
 - The development is a change of use to HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Bath, a city-wide Article 4 Direction removes permitted development rights for the proposed change of use from C3 (dwellinghouse) to C4 (House in Multiple Occupation), set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. As a result, planning permission is required for the change from residential to small HMO that has already occurred at the appeal site.
3. Since issuing its decision, the Council have adopted a revised 'Houses in Multiple Occupation in Bath' Supplementary Planning Document, November 2017 (the SPD); I have taken account of this document in reaching my decision.

Main Issue

4. The main issue is the effect of the change of use on the balance and mix of housing in the area and its character; and whether it provides a suitable mixture and type of housing in the locality.

Reasons

5. The appeal site comprises a two-storey terraced house, which lies in a small cul-de-sac development of 14 dwellings off Frome Road on the outskirts of Bath. The submitted floor plans show the building is laid out over three floors, with four bedrooms, two bathrooms, living room and kitchen-diner. Parking for one car is provided to the front of the building. The appeal site is already in use as an HMO; no physical alterations have taken place or are being proposed.

6. The Red Lion Lane development consists of four closely spaced blocks of townhouses arranged in short terraces, fronting a narrow, dead-end road. In my opinion, despite the proximity of other residential dwellings in the wider area, the proximity and relationship of the dwellings, and the shared access and parking areas in Red Lion Lane, combine to create a distinct residential enclave and discrete community in its own right with its own tangible character.
7. Policy H2 of the District-wide Strategy and Policies, July 2017 (the DS) restricts such development in areas of high concentration of existing HMOs, or where the HMO use results in the unacceptable loss of location in a locality in terms of mix, size and type. Policy CP10 of the Bath and North East Somerset Core Strategy, 2014 (the CS) is expressly concerned with providing for a variety of housing types and sizes to accommodate a range of different households, requiring regard to be given to the existing mix of dwellings in the locality and the character and accessibility of the location.
8. The revised SPD sets out the Council's approach to the distribution and dispersal of HMOs. It encourages an appropriately balanced housing mix, supporting a wide variety of households in all areas. Supplementary Policy restricts the change of use where it would result in a residential property being 'sandwiched' between two HMOs. It also establishes a two-stage test: firstly, requiring an assessment of whether a building is within 50 metres of a Census Output Area in which HMO properties represent more than 10% of the households; and, secondly, requiring assessment of whether the density of HMOs within a 100 metre radius exceeds the threshold. In this case, the Council have conceded that the site does not fall within 50 metres of a Census Output Area.
9. The Council have objected on the basis of there being an already high concentration of existing HMOs in the vicinity of the appeal site, and that allowing one more would upset the existing balance and mix of housing in the area and its character. There is no definition of what would constitute the 'vicinity' or 'locality' for the purposes of local or national policy. As a guide, assessing HMO concentrations would normally extend to a 100 metre 'buffer zone'. As I have not been provided with any evidence relating to the concentration of households within a 100 metre radius of the site, it is not possible to gauge whether or not the change of use would satisfy the second stage test set out in the SPD. However, underlying the planning policies and the SPD guidance is a requirement to ensure the right balance and mix of housing appropriate to a specific area and the character of the location.
10. To my mind, the site-specific nature of the Red Lion Lane development justifies, in this case, the Council's assessment of the locality as encompassing solely the Red Lion Lane environs. While the change of use at the appeal site has not resulted in a residential property being 'sandwiched', numbers 1, 3, 4 and 5 Red Lion Lane are already in use as licenced HMOs. Consequently, of the 14 properties that make up the development, the proportion of buildings within the vicinity lawfully in use as HMOs is 28%. Taking the change of use of the appeal site into account, the proportion increases to 36%. In my judgement, there is already an excessive concentration of HMOs within the vicinity of Red Lion Lane, which would be further exacerbated by the appeal scheme. On this basis, the change of use causes harm to the balance and mix of housing in the

area, resulting in harm to its character through failing to provide for a suitable mixture and type of housing in the locality.

11. The change of use therefore does not accord with Policy H2 of the DS; or Policy CP10 of the CS; in so far as these policies seek to ensure the change of use to an HMO would not, together with other existing or proposed dwellings in the locality, have a detrimental on the mix of size, type and affordability of accommodation available in the locality, and which seek to provide for variety of housing types and size to accommodate a range of different households, and requiring regard to be given to the existing mix of dwellings in the locality and the character of the location. There would also be a conflict with the aims of the SPD, which encourage an appropriately balanced housing mix, supporting a wide variety of households in all areas, as well as with paragraph 50 of the National Planning Policy Framework, which sets out the objective of creating sustainable, inclusive and mixed communities.

Other matters

12. I note the concerns regarding the impact of the change of use on parking and neighbours' living conditions, in terms of noise and disturbance. However, while parking may at times be problematic, at the time of my visit there were very few cars parked there. To my mind, the impact of one HMO would not have a materially harmful effect on parking or highway safety. I note too that there have been no records of complaints to Environmental Health in respect of noise and disturbance. While sympathetic to the neighbours' concerns, I do not consider these matters, in themselves, justify withholding permission. A lack of harm in respect of parking and living conditions, however, does not alter my decision regarding the main issue.
13. I appreciate that the appellant may have been misdirected in the original advice sought from the Council, which subsequently delayed the submission of a planning application. While noting the appellant's frustration with the Council, and that other units in Red Lion Lane have received consent for a change of use in the intervening time, these are not matters for consideration through the appeal process. I have therefore determined the appeal on the basis that the change of use does require planning permission.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR