
Appeal Decision

Site visit made on 12 March 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2020

Appeal Ref: APP/F0114/W/19/3242518

31 Third Avenue, Oldfield Park, Bath, BA2 3NY

- 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 Olly Barkley against the decision of Bath & North East Somerset Council.
 - The application Ref 19/03747/FUL, dated 19 August 2019, was refused by notice dated 24 October 2019.
 - The development proposed is for a change of use from a 5-bed House in Multiple Occupation (HMO) (Use Class C4) to a 7-bed HMO (Use Class Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a 5-bed House in Multiple Occupation (HMO) (Use Class C4) to a 7-bed HMO (Use Class Sui Generis) at 31 Third Avenue, Oldfield Park, Bath BA2 3NY in accordance with the terms of application 19/03747/FUL dated 19 August 2019 and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Olly Barkley against Bath & North East Somerset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. For clarity and precision, I have amended the description of development from the application form to match that of the decision notice. I have determined the appeal on this basis.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of residents in the area, with particular regard to noise, waste and vehicle movements.

Reasons

5. The appeal site is a dwelling house, positioned in the middle of a short terrace of generally similar properties. The main access is from Third Avenue, however the property also benefits from an access from the rear, via Canterbury Road. The existing building is presently in use as a 5 bedroomed HMO, but benefits from an extant planning permission (19/01166/FUL) to convert the roof space to provide an additional bedroom.

6. The appeal proposal would involve the conversion of the existing ground floor living and dining rooms into two new bedrooms. Internal alterations are proposed to existing communal areas. No external alterations or additions to the property are proposed.
7. Policy D6 (Amenity) of the Bath and North East Somerset Placemaking Plan (Adopted July 2017), requires all development proposals to not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of, amongst other things, increased noise, traffic or other disturbance.
8. The property is located within a predominately residential area, where there would appear to be a high demand for on-street parking. Within the vicinity of the appeal site, there are areas where parking is restricted. The property currently has 1 off-street parking space at the rear, although the availability of this space is questioned. The site is in a location with good access to a range of local services, facilities and bus routes. Given the marginal increase in the use of the building, any additional demand for car parking in the area is likely to be negligible. As a result, the proposal would not lead to an unacceptable impact on highway safety. I note that the local highway authority raised no objections to the proposed development and, on the basis of the information before me, I see no reason to disagree with this view.
9. The occupiers of the HMO are likely to lead independent lives from one another. Taking account of the size of the appeal property, the activity generated by seven persons living independently, with separate routines, would result in a level of activity that would be more than would reasonably be expected from a single house. In this case however, the dwelling is in use as a 5 bed HMO, with extant planning permission to increase to 6 beds. Therefore, considering the lawful level of occupancy, any increase in the level and amount of disturbance arising from the proposal, would likely to be minimal, and would not cause significant harm to surrounding residents.
10. With an increase in occupancy, it is likely that the proposal would result in some additional waste generated from the property. Provision for bin and recycling facilities is currently provided by the informal use of the existing front garden area. At the time of my visit, I noted the property had 2 black wheelie bins and a number of recycling boxes. Whilst no formal bin store would be provided, the existing front garden area would appear to be of sufficient size to provide off-road storage for the existing bins. I note that the use of front garden areas for the storage of bins is relatively commonplace along the street. This arrangement, even if it would include the provision of additional bins, would be unlikely to materially harm the character and appearance of the area.
11. For the reasons outlined above, I conclude that the proposed development would not adversely affect the living conditions of surrounding residents. As such, and in this regard, the proposal is not contrary to Policy D6 of the Bath and North East Somerset Placemaking Plan which, amongst other things, seeks to avoid development that would cause significant harm by reason of increased noise, traffic or other disturbance.

Other Matters

12. Concerns have been raised with regards to an intensification of HMOs within this part of Bath. Whilst this proposal would provide an additional room, given

the existing use of the building, it would not create a new HMO. It therefore follows that it would not increase the overall number of HMO properties within the area. The Council have also submitted that the Use Classes Order reflects an acknowledgement that an HMO of greater size will have a material impact. I don't agree with this and my conclusions have shown this not to be the case.

13. I have considered the Council's argument that the grant of planning permission would set a precedent for other similar developments. However, no directly similar sites to which this might apply have been put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

Conditions

14. The conditions suggested by the Council have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
15. To protect living conditions of surrounding residents and in the interests of parking and highway safety, a condition is necessary to limit the total occupancy of the dwelling to seven non-related occupants. To promote sustainable transport use, a condition is appropriate with regards to the provision of adequate additional cycle storage.

Conclusion

16. I conclude, for the reasons outlined above, that the appeal should be allowed.

Adrian Hunter

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be occupied by more than seven unrelated occupants.
3. No occupation of the development shall commence until bicycle storage for at least two bicycles has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.
4. The development/works hereby permitted shall only be implemented in accordance with the plans received 21 August 2019, as set out in the plans list below:
 - Location and Block Plan - 01
 - Existing Plans - 02A
 - Proposed Plans - 03A
 - Existing and Proposed Elevations - 04C
 - Design and Access Statement