



Appeal Decision

Site visit made on 15 September 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/F0114/W/20/3254832

Flat 14, Colleagues House, 130-132 Wells Road, Lyncombe, Bath, BA2 3AH

- 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 Gazelle Properties Ltd against the decision of Bath & North East Somerset Council.
 - The application Ref 20/01039/FUL, dated 10 March 2020, was refused by notice dated 5 June 2020.
 - The development proposed is application for change of use from 1 x 2-bedroom residential flat (C3) to 1 x 3-bedroom small HMO (C4).
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Decision

1. The appeal is dismissed.

Application for costs

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

Main issue

3. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties in respect of cumulative disturbance from houses in multiple occupation in the area.

Reasons

4. The site is in the Bath Conservation Area and the City of Bath World Heritage Site. The appeal site is in a modern building that was converted from offices to 14 flats in 2012. The 2-bedroom flat to which the appeal relates would be converted to 3 bedrooms with a shared kitchen, living room and bathroom.
5. A citywide Article 4 Direction was introduced in 2013 to control the spread of Houses in Multiple Occupation (HMOs) in the Bath area, which requires that permission is granted to change use from a residential flat to a small HMO. Policy H2 of the Bath and North East Somerset Core Strategy and Placemaking Plan 2011-2029 (adopted 2017) ('LP') states that changes to HMO use will not be supported if the area is already in an area with a high concentration of existing HMOs. The assessment methodology to determine an acceptable density of HMOs is contained in the 'Houses in Multiple Occupation in Bath Supplementary Planning Document' (November 2017) ('SPD'). I afford this significant weight as a material planning consideration.

6. The Criteria 2 Stage 2 assessment in the SPD prevents HMOs where this use already accounts for more than 10% of households within a 100-metre radius of the application property.
7. By the end of this appeal, both parties had agreed that 8 properties within 100 metres were HMOs. Regardless of an ongoing dispute about whether there are 86 or 87 households in total, this is the equivalent of about 9% HMO use locally. The inclusion of two additional properties remains disputed; 120 Wells Road and 14 Hayes Place.
8. Four flats at 120 Wells Road have previously been used as HMOs but no longer hold a licence. They have been subject to the maximum of 2 Temporary Exemption Notices, the last of which expired on 18 June 2020 and they have therefore been removed from the public register. The methodology for inclusion of properties in the SPD assessment includes licensed HMOs, as well as *'those established through site visits by the Council'*. As the Council have confirmed that the lawful planning use of the flats remains as HMO, I consider that it is appropriate that this property remains on the Council's database, regardless of whether it is currently in use or licensed.
9. The 100metre circle bisects the 'central point' circle of 14 Hayes Place. Section 4.3 of the SPD states that properties will only be included if their central point is within the buffer zone. No guidance is provided to direct assessment of a case where the line intercepts a central point and, in the absence of this, I consider it reasonable that this site is excluded. This is on the basis that the majority of both the central point circle and the house are beyond the line, and the SPD uses the term 'within', which technically the site is not.
10. Based on the above, I conclude that there are 12 HMOs within 100 metres of the appeal site, which is the equivalent of 13%. The number of HMOs within 100 metres is therefore more than the 10% threshold in the SPD.
11. This threshold has been chosen to ensure that HMOs do not significantly harm the amenity of nearby residents through loss of privacy, or intrusion from visual and noise pollution, in line with Policies H2 and D6 of the LP. In addition, Policy CP10 of the Bath and North East Core Strategy (adopted 2014) secures a range of housing types in the city. In exceeding the SPD threshold for the maximum proportion of HMOs, the proposal conflicts with the requirements of these policies.
12. Taking into account the intensity of the proposed use and the fact that no external alterations are proposed, I concur with the Council's assessment that the development would preserve the character and appearance of the conservation area. For the same reasons, neither would there be harm to the integrity of the World Heritage Site. However, these are matters of neutral consequence in the overall planning balance and hence do not alter or outweigh my conclusion on the main issue.

Conclusion

13. For the reasons above, and having regard to all other matters raised, the appeal should be dismissed.

B Davies,
INSPECTOR