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## Appeal Decision

Site visits made on 17 August 2021 and 7 September 2021

**by B Davies MSc FGS CGeol**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 October 2021**

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**Appeal Ref: APP/P0119/W/21/3273361**

**23 Lutyens Close, Stapleton, Bristol, BS16 1WL**

- 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 Fiebig (South West Estates Management Ltd) against the decision of South Gloucestershire Council.
  - The application Ref P19/6428/F, dated 4 June 2019, was refused by notice dated 21 October 2020.
  - The development proposed is described as 'the change of use from 4 no. bedroom dwelling (Class C3) to an 8 no. bedroom HMO (sui generis) as defined by the Town and County Planning (Use Classes) Order 1987 (as amended)'.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by South West Estates Management Ltd against South Gloucestershire Council. This application is the subject of a separate Decision.

### Procedural matters

3. The property was licensed as a 6 person HMO (Use Class C4) in August 2019, the change of use being permitted development. The description in the banner, which reflects that on the original application form, has therefore been superseded and I am dealing with the appeal on the basis that the existing use is Use Class C4.
4. The garage had been converted to a room for living in by the time of my site visit and this aspect of the proposal is therefore retrospective.
5. An amended application was submitted to the Council in February 2021<sup>1</sup>. This has been refused and does not form a fallback position. My decision is entirely based on the information submitted as part of P19/6428/F.
6. The National Planning Policy Framework (the 'Framework') was revised on 20 July 2021. Both parties have had the opportunity to comment on the implications of this for their case.

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<sup>1</sup> P21/00782/F

## **Main issues**

7. The main issues are:

- whether or not the development would provide satisfactory living conditions for the occupants, with particular regard to daylight,
- the effect of the proposal on local parking capacity and highway safety, and
- the effect of the proposal on the character of the area and the amenity of neighbours.

## **Reasons**

### *Living conditions*

8. The proposed living room, which has been converted from the garage, is lit with a small window on the western elevation. This looks onto the narrow side path, a high timber fence and is approximately 3 metres from the side of the neighbouring property. I observed that the room was quite dark during the middle of a sunny day and to this extent felt oppressive.
9. A 'Technical Advice Note: Assessing Residential Amenity' (June 2016) was in use at the time of the decision<sup>2</sup>. This states that rooms of primary living accommodation should have sufficient natural light to allow the room to be comfortably used. I do not consider that this guidance has been met.
10. The appellant states that it is clear the room would have enough light and has drawn my attention to the fact that it is closer to the south-facing front elevation than the northern end of the room. In the context of my observations and in the absence of any objective evidence of substance to the contrary, I do not find these statements persuasive.
11. It is contended that there would be an appropriate level of daylight in the house overall and, implicitly, that low levels of light in one room should be considered in this context. Given that the bedrooms are not for communal living and would not, in general, be suitable to eat or socialise in, this is not a compelling argument. In addition, although the kitchen is of sufficient size for catering, it is not large enough for all the occupants to sit down. The lounge therefore provides the only reasonable communal space for eating and relaxing. Consequently, ensuring an appropriate standard of accommodation in this room is critical.
12. The appellant states that the lounge already serves the existing 6 person HMO. This does not change my findings, that the level of daylight and living conditions in the room are poor. In any event, this proposal is for a more intensive use of the building and shared rooms.
13. Whether or not the rooms meet the minimum legal size requirements is a matter for the HMO licence. The scope of my decision relates to land use and whether or not the building would be appropriate to house 8 people, with regard to local policies, including those relating to living conditions.

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<sup>2</sup> This has been superseded by the adopted 'Householder Supplementary Planning Document', which reiterates this principle.

14. The lack of daylight in the lounge would result in a poor standard of living in the main shared room of the house and one in which I would expect a significant amount of time to be spent. The proposal is therefore in conflict with Policy PSP8 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (November 2017) ('LP'), which states that proposals must not create unacceptable living conditions, including in relation to daylight.

*Car parking and highway safety*

15. The parking standards in Policy PSP16 require that 0.5 parking spaces are provided per bedroom, which would equate to 4 parking spaces in total. PSP16 states that this can be provided within the curtilage, or alternatively through submission of appropriate evidence of the availability of on-street parking during evenings and weekends. Two off road parking spaces would be provided. A further 2 on-street parking spaces would therefore be required.
16. From my observations at the site during the day and the comments of Interested Parties, I am in no doubt that on-street parking in the area can be limited. However, a parking survey has been provided that demonstrates that there would be capacity to park 2 additional cars on the road during evenings and weekends.
17. I am mindful that the change of use to a 6 person HMO has already occurred. In reality, this proposal would therefore result in an additional 2 bedrooms, or the equivalent requirement of 1 extra car parking space, for which I am satisfied that on-street capacity is available. For this reason, I do not consider that there would be any risk to highway safety from inappropriate parking.
18. The proposal therefore meets the requirements of Policy PSP39 of the LP, which states that HMOs must provide parking in accordance with the Council's parking standards.

*Character of the area and amenity of neighbours*

19. The section of the housing estate on which the appeal site is located was originally designed as large, detached housing for single families. The area was quiet at the time of my visits and the character was that of an attractively laid out and well-kept estate of family housing.
20. The appeal site has already been converted to a 6 person HMO and there is no compelling evidence before me to indicate that this has materially changed the overall character of the area. There may be some modest increase in noise and disturbance generated by 2 additional people and associated visitors, but this would not be to a significant or noticeable degree. I do not consider that an additional 2 occupants in the property would result in a significant change to the character of the locality.
21. If multiple properties are converted to HMOs then the character of an area could potentially be changed to an unacceptable degree. However, no figures in extant policy or guidance outlining an acceptable proportion of HMOs for this area have been brought to my attention. I have therefore determined this appeal on its individual planning merits and based on the evidence before me. I conclude that the proposal would not have a harmful effect on the character of the area or the amenity of neighbours.

22. The proposal therefore meets the requirements of Policy PSP39 of the LP, in particular that HMOs should not harm the character of the area or the amenity of neighbours.

**Conclusion**

23. While the proposal would be acceptable in respect of car parking provision, the character of the area and the amenity of neighbours, significant harm would be caused to the occupiers of the HMO in terms of lack of daylight in the main shared room. This is a matter of overriding concern and hence the proposal would conflict with the local development plan when read as a whole. There are no other considerations that would lead me to determine other than in accordance with this. I therefore conclude that the appeal should be dismissed.

*B Davies*

INSPECTOR