
Appeal Decision

Site visit made on 8 June 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/P0119/W/22/3293909

12 Fifth Avenue, Bristol BS7 0LP

- 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 Dr Jody Muelaner against the decision of South Gloucestershire Council.
 - The application Ref P21/07108/F, dated 5 November 2021, was refused by notice dated 18 February 2022.
 - The development proposed is demolition of existing outbuilding, erection of detached two storey building with other associated works to facilitate a change of use from a class C4 (up to 6 person) house of multiple occupation to a 9-person house of multiple occupation (class sui generis) as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended).
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing outbuilding, erection of detached two storey building with other associated works to facilitate a change of use from a class C4 (up to 6 person) house of multiple occupation to a 9-person house of multiple occupation (class sui generis) as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) at 12 Fifth Avenue, Bristol BS7 0LP subject to the Schedule of Conditions.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as it provides a more concise description than that outlined on the original planning application form. As the amended description is consistent with that outlined on the Appeal Form, I am satisfied that there would be no prejudice in this respect.
3. There is a dispute over whether 12 Fifth Avenue should have been included when calculating the number of existing Houses of Multiple Occupation (HMO) within the locality. The Houses of Multiple Occupation Supplementary Planning Document (SPD) provides guidance in this regard. It states that data to inform the percentage of known HMO's is based on licensed HMO data and planning permissions for large HMOs (Sui Generis). Although it is accepted that No 12 is currently used as an HMO, it is not licensed and would not have been classed as a large HMO.
4. As such, in my judgement, it was reasonable of the Council to have not included No 12 for the purposes of calculating the number of known HMO properties within the locality. For the avoidance of doubt, I have considered the appeal on this basis.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. Fifth Avenue is a cul-de-sac located off a busy highway within an urban residential setting. The dwellings on the northern side are mainly terraced dwellings, which are similar in scale, appearance and finish. The properties are set behind a mix of front gardens and driveways, which are open with low enclosures. Fifth Avenue is a narrow road, with space for parking on one side and a gated lane providing vehicular access to the rear of the properties. 12 Fifth Avenue is a mid-terrace property set behind a small front parking area, with a long rear private garden. It has off street parking to the front and a large, detached outbuilding in the rear garden.
7. The SPD provides advice and guidance on applications for HMOs when planning permission is required. Section 5.3 of the SPD indicates that proposals for additional HMOs in localities¹ where known HMO properties already represent more than 10% of households, or 20% within a 100m radius, are unlikely to conform to the requirements of Policy CS17 of the South Gloucestershire Local Plan: Core Strategy 2013 (CS) and Policy PSP39 of the Policy Sites and Places Plan 2017 (PSPP).
8. The Council's evidence indicates that known HMO properties within the locality would rise from 11.1% to 11.57% (22 licensed HMO's of 190 properties) if the application were approved. Within a 100m radius, the percentage would amount to 10.47% when including the appeal property (11 licensed HMO's of 105 properties). As such, the percentage within the 100m radius is below the 20% threshold, but marginally above the 10% within the locality. Although this proposal would run counter to the threshold for the locality set out within the SPD, it is still necessary to demonstrate that the harm would be caused to the character and appearance of the area.
9. Policy CS17 of the CS and Policy PSP39 of the PSPP require the proposed development to not adversely affect the character of the area, have appropriate internal and external amenity space, to not impact upon neighbours living conditions and have appropriate refuse storage and parking. Policy CS17 also seeks to ensure that the mix of housing should contribute to providing choice in tenure and type of housing, having regard to the existing mix of dwellings in the locality and the character and relative accessibility of the location. The Council also cite Policy PSP8 of the PSPP, which refers to impacts of development proposals on living conditions of neighbours or of nearby properties.
10. Having regard to the size of the dwellings and spacious plots within the immediate area, the housing densities would be relatively low, so that the effect of going above the 10% threshold relative to the locality would be less concentrated. Also, from what I saw during my site visit, there was no clear physical evidence of the problems usually associated with high levels of intensified properties, such as inadequate refuse storage arrangements or poorly maintained frontages and illegal parking.

¹ Locality is defined by a statistical boundary known as the Census Output Area.

11. Aside from indicating the exceedance of the 10% threshold in the locality, the Council's Officer Report states that the proposed development would provide an acceptable level of living conditions for occupants, including internal and external amenity space, refuse storage as well as off-street vehicle and cycle parking. It goes on to indicate that there are no concerns over highway safety or neighbour's living conditions with respect to noise, disturbance and anti-social behaviour.
12. Consequently, with appropriate levels of accommodation, off-street parking, bin storage, and no concerns over noise, disturbance and anti-social behaviour, it does not follow that the proposed scheme would add to or result in any of the problems usually associated with high levels of intensified properties in a locality. With respect to providing a mix of housing, it is accepted by the Council that despite not being known, the current property is an unlicensed HMO. As such, the intensification of the use would make a more efficient use of the large plot in an accessible location without significantly altering the tenure and type of housing within the locality.
13. Accordingly, on the evidence before me, I find that there would be no unacceptable harm to the character or appearance of the area. As such, the proposed development would not be materially at odds with the aims of Policy CS17 of the CS, Policies PSP8 and PSP39 of the PSPP or the guidance set out in the adopted SPD. These policies, and guidance, seek to permit HMO's provided they provide adequate parking and living conditions for future occupiers, and do not result in a concentration of HMOs that would impact upon the character and appearance of the area.

Other Matters

14. I have had full regard to the third-party representations, which outline concerns over impacts upon neighbours living conditions and the overdevelopment of the site. Having regard to the scale of the outbuilding, the intervening distances and existing level of mutual overlooking, I am satisfied the outbuilding would not result in any undue loss of privacy or light for the occupants of neighbouring houses. Furthermore, issues associated with the intensification of the use, such as waste, parking and highway safety would be acceptable, subject to appropriate planning conditions.

Conditions

15. The proposed outbuilding is large, however, the building would be located in the garden, and would be subservient in scale and height to the main dwelling. However, to provide further control over the outbuilding and its accommodation, it is necessary to restrict the occupancy via condition. Any subsequent change of use from an ancillary building to 12 fifth Avenue would require planning permission.
16. It is necessary in the interests of clarity to define the approved plans for the scheme. Conditions requiring details, and the implementation, of bin storage, cycle provision, electric charging points and parking prior to occupation would be necessary to serve future occupiers. This would also help to reduce harmful emissions from the scheme, as well as protecting the character and appearance of the area and minimising on street parking pressures.
17. The Council suggested a construction working hours condition to limit neighbouring impacts during the construction phase. Having regard to the works

to the outbuildings and the number of dwellings on Fifth Avenue, it is necessary to limit the hours to protect neighbours living conditions.

Conclusion

18. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

M. P. Howell

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development shall begin no later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: Proposed Site Layout Plan, Proposed Dwelling Floor Plans, Proposed Outbuilding Elevation Plans, Proposed Outbuilding Floor Plans and Site Location Plan.
- 3) Prior to the occupation of the approved development, details of the two electric charging points shown on the Proposed Site Layout Plan, and a timeframe for their implementation, shall be submitted to and approved in writing by the local planning authority. The electric charging points shall be carried out in accordance with the approved details and shall thereafter be maintained in that manner.
- 4) Prior to the occupation of the approved development, details of the bin storage and cycle storage, shown on the Proposed Site Layout Plan, shall be submitted to and approved in writing by the local planning authority. The bin and cycle storage shall be provided in accordance with approved details and shall thereafter be maintained in that manner.
- 5) Prior to the occupation of the approved development, the car parking spaces shall be laid out in accordance with the details indicated on the Proposed Site Layout Plan and shall be retained in that manner thereafter.
- 6) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the use of the property known as 12 Fifth Avenue.
- 7) The hours of working on site during the period of demolition and construction shall be restricted to 0730 to 1800 Mon to Fri, 0800 to 1300 on Saturday and no working shall take place on Sundays or Bank Holidays. The term 'working' includes: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of the site.