



Appeal Decision

Site visit made on 20 September 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Appeal Ref: APP/P0119/W/22/3300295

85 Falcon Drive, South Gloucestershire, Patchway, BS34 5RA

- 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 Fox & Fox Investments 1 Ltd against the decision of South Gloucestershire Council.
 - The application Ref P22/01469/F, dated 3 March 2022, was refused by notice dated 19 May 2022.
 - The development proposed is described as "Garage conversion and installation of enlarged rear window to facilitate change of use from residential dwelling (Class C3) to a 8 bedroom large house in multiple occupation (HMO) for up to 8 people (sui generis) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would provide acceptable living conditions for future residents with regards to outdoor amenity space.

Reasons

3. The appeal site is located in a predominantly residential suburban area characterised by similarly designed dwellings. Properties appear to have been constructed around the same era, to a similar design. Vehicular access to the estate is provided to the rear and the dwellings and their associated open front gardens face on to a pedestrian footpath. Largely open front gardens, a largely consistent building line following footpaths, combined with adjacent green spaces and landscaping creates a pleasant open character.
4. Policy PSP43 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) (PSPP) sets out the requirements for private amenity spaces. Whilst no minimum standard is provided for HMOs it does require that external amenity spaces are functional and safe and of a sufficient size and functional shape to meet the needs of the likely occupiers. Reference is made in the submissions from both parties to the minimum standard for dwellings, which range from 5 square metres for a 1-bedroom flat up to 70 square metres for a 4+ bedroom house. Both main parties consider that the 1-bedroom flat minimum standards (40 square metres in the case of an 8-bedroom HMO) provides a guide for HMOs in the absence of specific guidance relating to such a development.

5. Part of the existing rear amenity space would be used for the proposed car parking. As such a usable area for private amenity space of approximately 22 square metres would be provided to the rear. To the front of the appeal building would be an area of open space measuring approximately 40 square metres. As such, approximately 64 square metres of space would be provided for the HMO.
6. However, the space to the front is open to the adjoining footpath with no boundary treatments. The Council confirm that there are conditions on the original planning permission for the site restricting the use of boundary treatments. The lack of boundary treatments would therefore enable clear views into this garden and would therefore afford it no privacy. It would be in clear views from several properties, the adjoining footpath, and the nearby road. Whilst it could still be used as amenity space, its lack of privacy would therefore limit its use. As the functional private amenity space would therefore only be approximately 22 square metres, this would not provide the space to accommodate 8 private individuals and their associated activities such as drying clothes and private outdoor seating.
7. I have had regard to the appellants submission in relation to nearby public open spaces. During my site visit I noted that the open space, which includes Gorse Covert a local nature reserve, was within easy walking distance to the appeal site. Whilst this would offer open space for future residents, this would not be private space that they would be able to utilise for activities such as drying washing. As such, I can only afford this limited weight.
8. The proposed development would have an unacceptable effect upon the living conditions of future occupiers. This would be contrary to PSPP Policy PSP43 which seeks to ensure that an adequate size of private space is provided and that it is functional and safe. The proposal is also at odds with the advice set out in paragraph 130 of the National Planning Policy Framework (Framework) that seeks high standards of amenity for existing and future users.

Conclusion

9. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR