

Appeal Decisions

Site visit made on 20 September 2022

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022

Appeal A: APP/P0119/W/3292160

52 Gayner Road, Filton BS7 0SW

- 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 Sam Andrews of Andrews Capital Ltd against the decision of South Gloucestershire Council.
 - The application Ref P21/06303/F, dated 23 September 2021, was refused by notice dated 19 November 2021.
 - The development proposed is erection of a hip-to-gable and rear roof extension, a part single, part two-storey rear extension, and the change of use from a residential dwelling (C3) to a large house in multiple occupation for up to 8 people (sui generis).
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Appeal B: APP/P0119/W/3292161

54 Gayner Road, Filton BS7 0SW

- 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 Sam Andrews of Andrews Capital Ltd against the decision of South Gloucestershire Council.
 - The application Ref P21/05761/F, dated 24 August 2021, was refused by notice dated 26 October 2021.
 - The development proposed is change of use from a residential dwelling (C3) to a large house in multiple occupation for up to 8 people (sui generis).
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Appeal C: APP/P0119/W/3292162

52 Gayner Road, Filton BS7 0SW

- 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 Sam Andrews of Andrews Capital Ltd against the decision of South Gloucestershire Council.
 - The application Ref P21/06543/F, dated 5 October 2021, was refused by notice dated 30 November 2021.
 - The development proposed is erection of a hip-to-gable and rear roof extension, a part single, part two-storey rear extension, and the change of use from a residential dwelling (C3) to a large house in multiple occupation for up to 9 people (sui generis).
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Appeal D: APP/P0119/W/3292163

54 Gayner Road, Filton BS7 0SW

- 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 Sam Andrews of Andrews Capital Ltd against the decision of South Gloucestershire Council.
 - The application Ref P21/05867/F, dated 26 August 2021, was refused by notice dated 26 October 2021.
 - The development proposed is Change of use from a residential dwelling (C3) to a large house in multiple occupation for up to 9 people (sui generis).
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.
3. Appeal C is dismissed.
4. Appeal D is dismissed.

Procedural Matters

5. As set out above there are four appeals, two each at 52 and 54 Gayner Road. All are to convert each dwelling into a House in Multiple Occupation (HMO) but for differing numbers of bedrooms and with different physical works to the properties. I have considered each proposal on its individual merits but, to avoid duplication, I have dealt with the schemes together, except where otherwise indicated.
6. The appeal form for each of these appeals refers to the appellant company as 'Redland Capital Ltd'. However, the appellant has confirmed that this was an error in completing the form, and that the appellant company in each case is the same as the original applicant, Andrews Capital Ltd, whom I am satisfied are able to make the appeals. This is reflected in the banner headings above.
7. In respect of each of the appeals, the appellant has provided amended plans showing changes to parking, with two spaces for each dwelling. For all four appeals, this would have the effect of reducing the number of on-site spaces from four (as shown on the plans considered by the Council) to two.
8. I am mindful of the guidance in the Planning Inspectorate's 'Procedural Guide: planning appeals – England' which states that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
9. In this case, the changes and the reduction in on-site provision would be substantive and interested people will not necessarily have been able to comment on them. I will therefore make my decision on the plans considered by the Council in making its decision.
10. The Council's Statement says that, for Appeals A and C, plans showing the proposed rear parking and manoeuvring area behind No 52 could not be taken into account in reaching its decision. However, the Council's decision notice (Appeal A) and subsequent correspondence (Appeal C) confirms that the plans showing this area were the ones on which it made its decision. These are therefore the plans on which I will consider the appeal.
11. The Council's decision notice for Appeal C refers to the proposal as a nine-bed HMO. However, during the application it was revised and determined as being for a seven-bed HMO. This is confirmed by the Council's Officer Report and I have dealt with it on this basis. For Appeal D, the Council has confirmed that the decision notice should have referred to drawing 3950.PL1.04 Rev A, for a nine-bed HMO (rather than Rev D for 8 beds).

12. The Council and its highway consultee have treated Appeal B as being for a nine-bedroom HMO, counting the study as a bedroom. However, the proposal is for only eight bedrooms, and so I have determined Appeal B on this basis.
13. At my visit, I saw that work is underway to extend both buildings to the rear, I understand to create a 6-bed HMO within each property. Such work may well be permitted development but both properties had not yet been converted. I have therefore dealt with the proposals on the basis that No 52 and No 54 are three-bed dwellings.

Main Issues

14. All the appeals were refused on the effect on parking and highway safety. Appeal C was also refused because of the effects of the rear parking area on the living conditions of adjacent dwellings either side. Appeal A includes the same parking proposal, but the refusal reason makes no reference to this issue. However, the Council's Statement does refer to living conditions for both appeals, to which the appellants have been able to comment, and I consider that this matter is equally relevant to both appeals. This is therefore a main issue for both Appeals A and C.
15. Similarly, all except Appeal C were refused on the effect on the provision of waste and recycling facilities. However, the Council's Statements refer to this issue for all the appeals, to which the appellants have responded, and I also consider that this matter is equally relevant to all appeals. This is therefore a main issue for all appeals, including Appeal C.
16. Accordingly, the main issues are:
 - Whether the proposal would make adequate provision for vehicle parking to avoid parking congestion in the area;
 - The effect of the proposals on the living conditions of the occupiers of 50 and 54 Gayner Road in terms of noise and disturbance (Appeals A and C only);
 - The effect of the proposals on highway safety; and
 - The effect of the proposals on waste and recycling collections locally.

Reasons

Vehicle Parking

17. To avoid parking congestion on local residential streets, Policy PSP16 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan, adopted November 2017 (SGLP) requires 0.5 parking spaces per HMO bedroom, rounded up to the nearest whole number. On this basis, for No 52, Appeals A (up to eight people) and C (up to seven people) would each require four spaces. Including the proposed parking area to the rear, both would provide four on-site spaces. Appeals A and C would therefore provide sufficient parking, complying with the standard set by the Policy.

18. For No 54, calculated on the same basis, Appeal B (up to eight people) would require four spaces and Appeal D (up to nine people) would require five spaces. The plans for Appeals B and D show four on-site spaces, two each to the side and rear of the property.
19. However, it is not disputed that there is insufficient width for two spaces at the front of the property, taking into account the boundary wall and the space necessary for a walkway to access the front door. Furthermore, the bin storage area as shown to the rear would be blocked by the side parking spaces. This would need to be relocated to the front of No 54, to provide the accessibility for collectors required by the Supplementary Planning Guidance Waste Collection: Guidance for new developments, January 2015 (Waste SPD). This would further restrict the amount of space available for parking.
20. These constraints mean that, in practice, fewer than four parking spaces would be available on-site to serve No 54, with any alternative tandem parking arrangement being awkward and impractical for the individual occupiers within the HMO. As a result, at least one space (Appeal B) or two spaces (Appeal D) would need to be provided on-street.
21. Parking surveys have been undertaken by the appellant to demonstrate the availability of on-street parking. The most recent survey (in December 2021), undertaken in the early morning and early evening, demonstrated around 17 to 20 free spaces in Gayner Road, with previous surveys finding a similar number of free spaces. This is also consistent with the number of free spaces that I observed on my visit, during a weekday morning.
22. However, the surveys and my visit are only snapshots in time and so may not be fully representative. I am told that a Highway Officer advised at the time of the applications that a weekend survey should be carried out between 10:00 and 12:00. However, the Council has subsequently published a Parking Survey Technical Advice Note (TAN), dated February 2022. This requires more representative weekend 'beat' surveys, taken over intervals of 30 minutes. Such surveys have not been provided and so I cannot be sure of the level of parking congestion on Gayner Road at weekends.
23. The TAN also requires that weekday surveys are undertaken after 20:00, when residents have returned from work. Instead, the surveys were carried out in the early morning and around tea-time, so would not necessarily have captured all workers, for example those who leave early and return late. Nor can I be sure that weekday visitors would have been reflected in the timing of the surveys. I do not therefore have sufficiently clear evidence of parking pressures and congestion locally.
24. Some properties in the road have their own driveway, but others are reliant on convenient on-street provision. There are other HMOs in Gayner Road, most of which have a parking provision below the standard, some with zero. An HMO was permitted at 29 Gayner Road¹, which I understand was based on a single survey that was accepted by the Council. However, this decision pre-dated publication of the TAN, and so the circumstances have now changed, meaning I can only give this decision limited weight.

¹ LPA reference P21/04408/F, approved October 2021

25. The site is well located for services and facilities, with shops, schools and employment opportunities nearby. There is good access to bus services from stops close by. Furthermore, although somewhat dated, 2011 Census data shows a low level of vehicle ownership, and that student and shared professional households are more likely than other households to have no vehicle available.
26. However, the data also shows that locally around half of one-person households have a vehicle available to them, and that student and shared professional households are still more likely than not to have a vehicle available. This broadly supports the 0.5 space per room standard and so I am not convinced that the census data justifies a reduced provision.
27. I therefore conclude that Appeals A and C at 52 Gayner Road would make adequate provision for vehicle parking to avoid parking congestion in the area. They would accord with SGLP Policy PSP16 and the National Planning Policy Framework (the Framework) in respect of local parking standards.
28. However, Appeals B and D at 54 Gayner Road would not make adequate provision for vehicle parking, and I cannot be sure that there is sufficient capacity to avoid parking congestion in the area as a result. As such, they would conflict with Policy PSP16 and the Framework.

Living Conditions (Appeals A and C only)

29. No 52 is a semi-detached property with its neighbour, No 50. Both properties have rear gardens, with a tall hedge between them. The plans before me for both Appeals A and C include the creation of a parking area, encompassing a substantial proportion of the rear garden of No 52, in order to provide parking and manoeuvring space for three vehicles.
30. A 1.8m close boarded fence is proposed to divide the parking area from the rest of the garden, and existing boundary treatments would help to screen it from the rear garden of No 50. There was no boundary treatment between No 52 and No 54 when I visited, but one could be secured by condition to provide screening.
31. However, the occupants of No 50 and No 54 (whether as a dwelling or an HMO) could reasonably expect a degree of peace and tranquillity within their rear garden. I am concerned that the creation and use of the parking area, would result in noise and disturbance, including from doors closing, engine noises, radios and tyre squealing, including from manoeuvring. Driveways and garages beyond a rear elevation may not be uncommon, but it is not usual in my experience for vehicle parking to take place over much of the depth of a rear garden.
32. The parking area may not require planning permission. However, I note the appellant's desire for a mix of on- and off-street parking and that the parking area was only provided to overcome the Council's concerns. I cannot therefore be certain that there is a realistic prospect that the parking area would be installed, especially for a fewer number of occupants, under permitted development rights. I therefore give this only limited weight.

33. I therefore conclude that the proposals would cause significant harm to the living conditions of the occupiers of Nos 50 and 54 Gayner Road in terms of noise and disturbance, and that the potential use of permitted development rights would not outweigh this harm.
34. As such, Appeals A and C would conflict with SGLP Policies PSP8 and PSP38, both of which require that proposals do not create unacceptable living conditions for nearby properties, or prejudice neighbours' amenities, including as a result of noise or disturbance. They would also conflict with the requirement in the Framework for a high standard of amenity for existing users.

Highway Safety

35. The appeal sites, together with other properties, are accessed via a long and narrow accessway from the main part of Gayner Road. The accessway is not wide enough for vehicles to pass pedestrians, cyclists or one another, with no publicly available refuge points along its length. Closer to Gloucester Road North there is a similar but longer accessway off Gayner Road, serving other dwellings.
36. Based on SGLP Policy PSP16, the adopted plan's standard is that a 3-bed dwelling would require 2 parking spaces and it is common ground that each would generate 6 movements. It follows that, using the same standard which takes into account HMO use, proposals such as these generating a need for four or five spaces, would result in at least twice the level of vehicular movements.
37. I note that for Appeal C the Council's Highway Officer confirmed that the effect of the seven-bed proposal (requiring 4 spaces) would not be significant enough for a highway objection to be sustained. Appeal A and B would also result in the same number of spaces (rounded-up) and therefore a similar number of movements, suggesting that a highway safety objection to these schemes would also be difficult to sustain.
38. Allocating the on-site parking spaces to specific rooms would help to limit movements caused by occupants seeking a vacant space, who would know that their own should be free. Moreover, even accepting the level of increase suggested by the Council, and cumulatively for proposals at both properties together, I saw that the accessway is straight and flat, with good forward visibility. Its narrow width and residential context mean that vehicle speeds are likely to be low, and many using it will be familiar with its nature.
39. I have not been made aware of any accidents relating to this or the similar accessway nearby, which serves a greater number of properties. Whilst any conflicting movements within the accessway may require reversing and/or manoeuvring (including for pedestrians and cyclists), given the low key, suburban context of the area, it seems unlikely that such movements would result in harm to the safety of users.
40. I therefore consider that Appeals A, B, C and D would not have a harmful effect on highway safety. They would therefore comply with SGLP Policy PSP11, which requires proposals to provide safe access and to not harm

highway safety. It would also accord with the Houses in Multiple Occupation SPD, August 2021, and the Framework, both of which make similar requirements.

Waste and Recycling Collection

41. The constraints of the accessway and its small turning area mean that waste and recycling from the existing dwellings cannot be undertaken by standard collection vehicles. Instead, collection is made by a smaller vehicle with restricted capacity, the availability of which is limited. I see no reason to disagree with the appellant's estimate that each proposal would increase the amount of waste generated by around 1x140L bin for No 52 and No 54 each, compared to existing, albeit consisting of both black-bin waste and recycling.
42. I have no substantive evidence that this increase would require a larger vehicle to be used, for which there would be insufficient space here. Instead, the increase would be likely to require greater use of the existing smaller collection vehicle, for instance requiring it to make additional trips to the waste and recycling centre.
43. However, the reduction in its availability, and the addition to carbon emissions from additional movements to the centre, would in my view be relatively small, and would take place in a road where smaller vehicles are already used. As such, collections would not be significantly affected, and highway safety would not be compromised.
44. I am therefore satisfied that the effect of Appeals A, B, C and D would not be harmful to waste and recycling collections locally. On this basis the requirements of South Gloucestershire Core Strategy Policy CS1, adopted December 2013, would be met, that sufficient waste provision is designed-in for recyclable materials, for the collection of these and other waste. The similar requirements of the Framework would also be met, as would that of the Waste SPD, that vehicle access is suitable for the Council's collection fleet.

Other Matters

45. A number of local residents have raised concerns regarding the effects of the extensions on the living conditions of adjoining occupiers. Concerns have also been raised in respect of the effect of the proposals on the character of the area; the number of HMOs locally; local infrastructure; wildlife, and other matters. However, having regard to my findings above, these matters do not alter my overall conclusions.

Planning Balance and Conclusion

46. I have found that Appeals A and C would cause significant harm to the living conditions of the occupiers of 50 and 54 Gayner Road in terms of noise and disturbance. They would make adequate provision for vehicle parking to avoid parking congestion in the area and would not harm highway safety or waste and recycling collections locally. However, these do not overcome the conflict with the Development Plan I identify above.

47. I have found that Appeals B and D would not make adequate provision for vehicle parking to avoid parking congestion in the area. That they would not harm highway safety or waste and recycling collections locally does not overcome the identified conflict with the Development Plan.
48. For the reasons given, in each case there would be conflict with the Development Plan, read as a whole, and no material considerations have been shown to have sufficient weight to warrant a decision for each proposal other than in accordance with it. I therefore conclude that Appeals A, B, C and D should be dismissed.

O Marigold

INSPECTOR