



Appeal Decision

Site visit made on 14 February 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/Z0116/W/22/3309023

8 Acramans Road, Southville, Bristol City, Bristol BS3 1DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Baker, Connolly and Callaghan Ltd against Bristol City Council.
 - The application Ref 22/03215/F, is dated 27 June 2022.
 - The development proposed is change of use from registered nursing home (C2) to a 14-bedroom emergency accommodation unit for up to 20 people (sui generis), including ancillary office.
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Decision

1. The appeal is dismissed and planning permission for change of use from registered nursing home (C2) to a 14-bedroom emergency accommodation unit for up to 20 people (sui generis), including ancillary office is refused.

Preliminary Matters

2. The appellant name provided on the appeal form differs from that on the planning application form, although the company name is the same. However, for consistency I have used the applicants name shown on the application form in the banner heading above.
3. I observed on my site visit that the development applied for had commenced and the internal layout broadly accorded with that shown within the proposed plans, although the building was not occupied. Furthermore, a storage building had been constructed, in the location of the proposed bin store. However, the development undertaken differs from the storage building shown on the submitted plans in scale. Therefore, for the avoidance of doubt, I am considering the development proposed on the same basis as the Council as opposed to the development that has been built.

Background and Main Issues

4. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has provided reasons that they would have refused planning permission for, had they retained jurisdiction to do so. The appellant has had the opportunity to respond to these in their final comments therefore, they would not be prejudiced by my taking these into account and forming the main issues. With these reasons for refusal in mind, I consider the main issues to be:

- The effect of the proposal on the concentration of Houses in Multiple Occupation (HMO) in the area and the resulting effect on living conditions of neighbouring occupiers with regard to noise and disturbance;
- Whether the proposal provides suitable living conditions for future occupiers, having regard to the standard of accommodation; and
- The effect of the proposal on the highway and transport network with regards access, parking, refuse management and cycle storage.

Reasons

Concentration of HMOs

5. The Council's supplementary planning document Managing the Development of Houses in Multiple Occupation (2020) (SPD) seeks to prevent the intensification of HMOs where more than 10% of the dwelling stock, within a 100 metre radius of the area surrounding the application site, are already in HMO use. Furthermore, 10% is considered a likely tipping point, beyond which negative impacts to residential amenity and character are likely to be experienced and housing choice and community cohesion start to weaken.
6. The Council suggests that the Southville Ward, which the appeal property lies within, has a higher concentration of HMOs than the Bristol average. However, the Council also state that within 100 metres of the site, 5.04% of properties are HMOs and therefore even if the appeal were to be allowed, the concentration would fall under the stipulated 10% as stated within the SPD.
7. Numbers 5 and 7 Acramans Road are located on the west side of Acramans Road. While 5 Acramans Road is a licensed HMO, it is situated on the opposite side of the highway to the appeal property. I have not been made aware of any further HMOs within Acramans Road and therefore the proposal does not result in sandwiching of 7 Acramans Road, as described within the SPD.
8. Notwithstanding the percentage of HMOs within a 100 metre radius, or the lack of 'sandwiching' of a dwelling indicating there would not be an over-intensive concentration of HMOs in the area, nonetheless the proposal would increase the number of people living on the appeal site and in the locality.
9. The predominant character of the area in the vicinity of the appeal site remains as family housing and the semi-detached layout of the buildings means that activities associated with the proposal accommodating 20 people, plus staff, would be more noticeable particularly given the close relationship with the attached No 10.
10. The appellant suggests that the building could function without alteration as 4 self-contained flats potentially accommodating 18 people. However, while historically the building may well have been 4 flats, the existing use of the appeal property is as a 10-bed care home with ancillary managers accommodation, and I am not aware of any extant planning permissions for 4 flats. It has also been put to me that the existing planning permission may not restrict occupier numbers associated with the use and also that the existing 10 bed care home use would include additional movements of staff, servicing and visitors etc.

11. However, even if the existing planning permission is not restricted, and the number of beds within the care home could be increased, the character of use as a C2 residential care home materially differs from that of the appeal proposal in terms of movements and associated activities of occupants. Noting the appellants comments that it is important for future occupants to retain links to 'family/friends/schools/places of employment' and that 'circa 60% of residents are employed', occupants of the proposed development are more likely to come and go from the appeal site during their occupation than residents of a care home with associated disturbance.
12. I acknowledge the care home use would also result in movements from visitors to residents and staff etc, but I am not convinced that this would be similar or result in similar disturbance than the proposed use. Even if future visitors were prohibited as indicated in the submission, and it is not clear how this could be enforced, the appeal proposal would still result in additional movements from associated servicing and staff as well as occupants leaving the site to visit family and friends, noting the appellants comments within the paragraph above.
13. Therefore, notwithstanding the appellants suggestion that occupants would accommodate individual households as opposed to 20 people living communally, given the significant increase in bedrooms and occupation, I find that the proposal would result in demonstrable additional movements.
14. From the evidence and my own observations, the levels of noise and disturbance experienced by neighbouring occupiers from comings and goings of the proposed development would be of a materially increased level and significantly greater than would typically be expected in a residential area, to the detriment of their living conditions.
15. The appellant's planning submission states that additional sound insulation is being installed, and that the on-site office would be staffed overnight, with a property management plan (PMP) implemented to protect neighbouring occupiers living conditions. However, no details have been provided to me of the sound insulation measures, and while brief details of the contents of the PMP have been provided, full details of the PMP, including how noise disturbance would be monitored, or other criteria such as restriction of visitors can be enforced, are not before me.
16. While a planning condition could be imposed requiring the submission of details of these matters, such measures would not overcome the increased levels of noise and disturbance that would arise simply from the daily activities and comings and goings of individual households living in one property. Thus, I am not convinced that conditions would overcome the harm identified.
17. Consequently, although I find that the proposal would not result in a harmful concentration of individual HMOs as outlined within the SPD, the number of occupants associated with the proposal would have an adverse effect on living conditions of neighbouring occupiers with regard noise and disturbance. The proposal therefore conflicts with Policy DM2 of the Site Allocations and Development Management Policies (2014) (SADMP) and Policy BSC18 of the adopted Bristol Development Framework Core Strategy 2011 (CS) which seeks, amongst other things, to ensure that development preserves the residential living conditions and character of an area and help support the creation of mixed, balanced and inclusive communities.

Living conditions for future occupiers

18. The proposal would provide 2 kitchens, a communal lounge / dining room, 3 bathrooms, a shower room and separate toilets on lower ground, ground and first floors. The appellant has stated that the floor area of all bedrooms, and communal areas, as well as the number of bathrooms and toilets meet or exceed HMO licensing requirements.
19. The Council have stated that to meet the policy expectation for HMOs, development should have regard to the current minimum room size standards applied by the Council to licensable HMO properties. Despite the Council suggesting that the facilities are insufficient given the number of potential occupiers, I note correspondence from the Council's Private Housing Services team indicating that the bedroom and kitchen provision is acceptable for 20 occupants.
20. Although I acknowledge the interested parties' concerns relating to living conditions, and that staff would also require access to rest facilities, I have no substantive evidence before me to lead me to conclude that the proposed facilities would not meet licensing requirements or would not provide facilities to enable satisfactory living conditions for the number of intended occupiers.
21. Consequently, I conclude that the proposal would provide suitable living conditions for future occupiers with regard to the standard of accommodation. The proposal would therefore accord with the requirements of SADMP Policy DM2 in so far as it relates to providing a good standard of accommodation for future occupiers.

Highway and transport

22. The proposal would utilise the existing vehicular access onto Acramans Road and incorporates 4 vehicular parking spaces, (one of which would be a dedicated disabled parking bay) as well as a bike store and separate refuse and recycling store.
23. I have been provided with a consultation response from the Council's Transport Development Management Officer (TDMO), however this response concerns an earlier planning application relating to a scheme for 15-bedroom accommodation, as opposed to the appeal proposal. Notwithstanding, the proposal before me does now incorporate the provision of a disabled space, details of lighting and separate waste and recycling stores.
24. The appeal site is within walking distance of a number of local services and facilities and public transport links. Surrounding on-street parking is operated by the Bedminster East residents' parking scheme. Although the TDMO expects that few of the occupants would use parking spaces, the proximity of local services and cycling routes would minimise the need for future occupants to travel by private vehicle in any case, and I therefore find that the quantum of parking provision is suitable.
25. The bicycle store would accommodate 8 bicycles with a further two bicycle stands within the grounds for visitors in accordance with the TDMO earlier consultation response. The appellant also states that the proposed dedicated refuse and recycling store is of a suitable size to accommodate refuse and recycling containers of the sizes specified by the TDMO and I see no reason to disagree.

26. I note that the TDMO has requested a swept path analysis for an ambulance entering and leaving the site. Given the proposal relates to emergency accommodation as opposed to any care provision, I have no reason to believe that the intended occupiers would be more in need of emergency care than that within the existing use, or any other form of non-care related accommodation.
27. Furthermore, the TDMO has request one Electric Vehicle (EV) charging point and detailed plans of drainage. However, I have not been provided with any adopted policy which would require the provision of an EV point as part of this type of development and therefore I afford the lack of such provision limited weight.
28. In respect of drainage, the existing access and parking area would be utilised, with a small additional amount of hardstanding provided. Given the small amount of additional hardstanding, and noting the appellants indication that any additional water run off would drain towards the front garden and not the public highway, if I were to allow the appeal, drainage detail could be secured by condition.
29. I conclude on this main issue that the proposal would not adversely harm the highway and transport network and would provide appropriate access, parking, refuse management and cycle storage. The proposal would therefore accord with SADMP Policy DM2 in so far as it relates to the provision of vehicular parking and storage for recycling/refuse and cycles.

Other Matters

30. The appeal site is located within the Bedminster Conservation Area ('BCA') but I note that the Council do not raise any concerns in this regard. In my view there would be no material effect on the frontage of the building and the minor works for storage would be acceptable in design terms and would not be conspicuous. Therefore, the proposed development would preserve the character and appearance of the BCA.
31. Interested parties raise concern about unauthorised works that may have taken place but whatever the case may be, those are not matters for me to address as part of this appeal.
32. I have considered all other matters raised by interested parties including disabled persons access and impact on nearby businesses. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.
33. I acknowledge that the proposed development is a resubmission of a scheme and the appellants efforts to overcome concerns previously raised by the Council. However, on the evidence before me and the merits of this appeal scheme, I have still found unacceptable harm.
34. I have also been made aware that the appellant has received a notice that the local housing authority propose to grant a license for the appeal property for use as a HMO by not more than the maximum of 15 households and 25 persons. Even if this indicates that the property meets licensing criteria, such a licence is issued under a differing legislative regime, and in any case I have found that the proposed development would result in suitable living conditions for intended occupants.

Planning Balance and Conclusion

35. Although there would be compliance with some aspects of the development plan, I give greater weight to the conflicts I have identified above. The proposal would conflict with the development plan, when taken as a whole. Moreover, this is not outweighed by the benefits in terms of helping to meet a demonstrable need for additional temporary accommodation in this particular locality where I am told there is less provision of framework accommodation.
36. For the reasons given I find that the proposal would conflict with the development plan, read as a whole. Material considerations, including the National Planning Policy Framework, do not indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR