



Appeal Decision

Site visit made on 5 April 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2023.

Appeal Ref: APP/P0119/W/22/3306864

42 Wades Road, Filton, Bristol BS34 7ED

- 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 Mt Ted Baker of Hiro Land Ltd against the decision of South Gloucestershire Council.
 - The application Ref P22/03633/F, dated 29 June 2022, was refused by notice dated 7 September 2022.
 - The development proposed is Change of use from a small house in multiple occupation for 3-6 people (C4) to a large house in multiple occupation for up to 7 people (sui generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under The Town and Country Planning (Use Classes) Order 1987 (as amended), Class C4 Houses in Multiple Occupation, covers small, shared houses occupied by between 3 and 6 unrelated individuals, as their only or main residence, who share basic amenities (henceforth referred to as a small HMO). Changing from a C3 dwelling house to a C4 small HMO is classed as permitted development. Houses with 7 or more unrelated residents (henceforth referred to as a large HMO) are classed as a Sui Generis use.
3. The appeal dwelling has recently been extended within the roof and across 1 and 2 storeys to the rear. The appellant states that the dwelling has been in use for some time as a small HMO for up to 4 people, and after the extension could be used for up to 6 people without the need for planning permission. Regardless of how many people have previously lived at the dwelling, the application subject to this appeal sought permission for a change of use from a C4 small HMO to a Sui Generis large HMO, which requires planning permission. Consequently, I have considered the appeal on the same basis and have assessed the suitability of the appeal site for use as a large HMO.
4. A licence is required for a HMO with 5 or more occupants. This requirement is separate from and different to the requirement for planning permission. Licencing sits under different legislation, outside the scope of this appeal.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupants of 40 Wades Road, with regard to noise and disturbance.

Reasons

6. 42 Wades Road is a recently extended semi-detached dwelling in a residential street. In common with others in the street, the dwelling is set back from the road by a modest front yard and includes a reasonable sized rear garden. The proposal would result in Non 42 becoming a HMO with 7 bedrooms and a shared kitchen and lounge area.
7. Policy PSP39 of The South Gloucestershire Local Plan: Policies, Sites and Places Plan (Adopted 2017) (LP) covers matters relating to HMOs. It sets out that where planning permission is required for an HMO, it will be acceptable provided that it would, amongst other things, not prejudice the amenity of neighbours. In addition, Policy PSP8 of the LP is relevant and requires that any development does not create unacceptable living conditions or have an unacceptable impact on the residential amenity of occupiers of nearby properties, including through noise or disturbance.
8. South Gloucestershire also have a Supplementary Planning Document relating to HMOs (Adopted 2021) (SPD). Although this is not part of the development plan, it is a material consideration and provides advice and guidance to support understanding of relevant development plan policies, including PSP39 and PSP8. It sets out that "this document relates to the management of planning applications for new HMOs when planning permission is required¹" and that in seeking to implement policy, the SPD "will offer some support to decision-takers in determining planning applications for HMO development, including the extension of HMOs to add additional rooms or increase the number of occupants²". In Additional Explanatory Guidance 1³, the SPD specifies that "In considering applications for the change of use from a dwelling house (Use Class C3) to an HMO (Sui Generis), and whether that would prejudice the amenity of adjacent neighbours, the following factors will be taken into account: whether any dwelling house would be 'sandwiched' between two HMOs, or result in three or more adjacent HMO properties". The proposal subject to this appeal requires planning permission, relates to adding additional rooms to an HMO and the change would be to a Sui Generis large HMO. I therefore consider the SPD guidance to be applicable to this appeal, regardless of whether the current use is a C4 small HMO.
9. The Council has stated that 38 Wades Road is a HMO, which the appellant does not dispute. Therefore, the proposal would result in 40 Wades Road, which is attached to the appeal site, being sandwiched between two HMOs. This is a material consideration in assessing the impact of the proposal on neighbouring living conditions, as required by LP policy.
10. The occupiers of an HMO are likely to lead lives which are independent from one another. Seven individual people would likely have separate routines, with their attendant comings and goings, along with those of their visitors. The activity generated by this would be markedly more intensive than would reasonably be expected from a standard dwelling, even one occupied by a large family, as they are more likely to carry out day to day activities together as a household.

¹ Page 3 bottom paragraph.

² Page 14 top paragraph.

³ Page 15.

11. I acknowledge that the appeal site may already be able to be used as an HMO for up to 6 individuals, meaning that No 40 is already sandwiched between HMOs. Despite this, the addition of an extra individual, with their extra comings and goings, would exacerbate the situation. The increased level of activity would lead to an intensification of the level of general noise and disturbance. I consider that the proposed increase from a potential 6 to a proposed 7 occupants at No 42, would have a materially greater impact on the amenity of occupants of No 40, because they would experience the cumulative impact from both sides, due to being 'sandwiched' between two HMOs. This impact would be highly localised so would occur regardless of whether the overall percentage of HMOs in the locality, or within a 100m radius, would remain within levels recommended in Additional Explanatory Guidance 2 of the SPD.
12. The appellant states that sound proofing is proposed for the party wall. Regardless of the lack of detail provided, while suitable sound proofing could potentially reduce noise spread internally, it would do little to reduce the more significant source of noise and disturbance from additional comings and goings.
13. My attention has been drawn to two examples of applications⁴ that were granted permission by South Gloucestershire Council relating to change of use from a small to a large HMO (C4 to Sui Generis). In the first example, HMO concentrations in the locality were already slightly above the recommended percentage, but the proposal would not have resulted in sandwiching or HMOs within a 100m radius being above the recommended percentage. The impact of one additional bedroom at a locality level would be significantly less than the intense and highly localised impact of one additional bedroom on a dwelling sandwiched directly between 2 HMOs. In the second example, there would be no sandwiching and the HMO percentage at locality and 100m radius level would both have remained below the recommended percentage. Therefore, the example developments and the appeal proposal are not directly comparable in terms of their impact on neighbour amenity. In any event, each case must be considered on its own merits.
14. I conclude that the proposed development would cause unacceptable harm to the living conditions of the occupants of 40 Wades Road, with regard to noise and disturbance. Consequently, the development would not comply with Policies PSP8 and PSP39 of the LP, or the guidance contained in the SPD. Together, amongst other things, these seek to ensure that development does not result in unacceptable impacts on neighbours through noise and disturbance, including through the sandwiching of single dwelling houses between HMOs.

Conclusion

15. For the reasons given above and taking into account the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

Helen Davies

INSPECTOR

⁴ The first example is at 103 Station Road, Filton, reference P21/07563/F, approved 28 January 2022. The second example is at 2 Braemar Crescent, Filton, reference P21/05263/F, approved 7 October 2021.