



Appeal Decision

Site visit made on 9 May 2023

by **Jonathan Edwards BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/P0119/W/23/3314238

112 Kings Drive, Stoke Gifford BS34 8RQ

- 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 Mr Patel (Pasha Wealth Ltd) against the decision of South Gloucestershire Council.
 - The application Ref P22/02657/F, dated 9 May 2022, was refused by notice dated 14 October 2022.
 - The development proposed is described as "change of use from a dwelling (C3 use) to a seven bedroom house in multiple occupation (sui generis use) (resubmission of planning reference: P21/08036/F)".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr Patel (Pasha Wealth Ltd) against South Gloucestershire Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The description of the development in the header is taken from the application form. During the period when the Council was considering the application, a license was granted for the appeal property to be used as a 5 bedroom house of multiple occupation (HMO) with 5 occupants permitted. The property is now used for that purpose. A change from a dwelling to a small HMO is allowed under permitted development rights and there is no suggestion that the current use is unauthorised. Therefore, it is reasonable and appropriate to have regard to the existing HMO in my assessment of the appeal.

Main Issues

4. The main issues are (i) whether the development would provide adequate living conditions for occupiers in terms of the quantity and quality of private outdoor space, and (ii) parking.

Reasons

Living conditions for occupiers

5. The appeal property is a 3 storey dwelling in a residential area. It has no front garden but there is a fenced and hard surfaced back garden with a gated

- access off Star Avenue. A separate garage on the opposite side of Star Avenue is included within the defined appeal site.
6. Policy PSP43 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan 2017 (the LP) states that all new residential units will be expected to have access to private amenity space. This should be of a sufficient size and functional shape to meet the needs of the likely number of occupiers. It is reasonable to expect the proposed 7 bedroom HMO would have 7 occupants.
 7. The reasoning to LP policy PSP43 states that as a minimum the external area should be able to accommodate a table and chairs suitable for the size of the dwelling; a garden shed for general storage; space for refuse and recycling bins; an area for drying washing; circulation space and an area for play. It also states that external private amenity space does not include car parking.
 8. The appeal plans show a large part of the back garden would contain 2 parking spaces. The main parties both indicate that there would be a private garden area of 11m², excluding the parking area. The drawings also show a cycle store in the garden but the appellant suggests the separate garage could be used for this purpose and for general storage. I agree as the garage is conveniently located, close to the rear gate to the appeal property.
 9. LP policy PSP43 sets out minimum garden sizes for several types of residences, although no standard is included for HMOs. Using the requirement for a 1 bedroom flat of at least 5m², the Council suggests that a garden of at least 35m² (7 x 5m²) should be provided for a 7 bedroom HMO. In the absence of any alternative, it is reasonable to adopt the Council's suggestion as a minimum guide figure for outdoor space to serve the proposal.
 10. The garden of 11m² would be significantly below the 35m² minimum guide figure, so suggesting there would be insufficient external space. Moreover, with 2 vehicles parked as indicated on the plans, the useability of the back garden would be limited. The appellant suggests that as well as parking, the garden could accommodate tables and chairs and a drying area. However, with cars in the indicated spaces, I am unconvinced that such facilities as well as bin storage for 7 occupants could be provided whilst at the same time allowing for reasonable circulation.
 11. As a HMO, it is unlikely that children would reside at the property and so there would be no significant need for play space. Even so, it is fair to expect HMO occupiers would have access to private outdoor space of a sufficient size and quality for comfortable relaxation and socialising. The small size and constrained nature of the outdoor space when cars are parked would fail to satisfactorily meet these expectations.
 12. Already, the garden serves as the only private outdoor space for the occupiers of a 5 bedroom HMO. However, the proposal would lead to more occupants at the property than the existing situation. Therefore, it would increase the use of, and demand for, the constrained garden area and so it would lead to poorer living conditions compared to the current situation.
 13. Prior to its existing HMO use, the property was a 5 bedroom single household dwelling. LP policy PSP43 sets out a minimum standard of 70m² of private outdoor space for houses with 4 or more bedrooms. The appellant highlights that compared to the appeal proposal, the shortfall of garden space against

policy PSP43 standards would be more if the single household use of the property is resumed. As such, it is argued that the appeal proposal would be an improvement in terms of outdoor area provision compared to the fallback position of the property being returned to a family residence.

14. However, there is little evidence before me to demonstrate that the property would be used again as a single household dwelling. Indeed, the 5 bedroom HMO use has only recently started, which suggests it is unlikely the house would soon be converted back to a family dwelling. The appeal proposal itself demonstrates an intention to retain the property as a HMO. Therefore, I consider there is no more than a theoretical possibility of the suggested fallback position being implemented if the appeal is dismissed. As such, this factor fails to override my concerns in respect of the lack of garden space.
15. For the above reasons, I conclude the development would provide unsatisfactory living conditions for occupiers having regard to the quantity and quality of private outdoor space. As such, it would not accord with LP policies PSP39 and PSP43, which seek to ensure HMOs have adequate amenity space.

Parking

16. There are residences near to the appeal property with garages and off road parking facilities but on my site visit I saw that street parking was prevalent. The opportunity to park on local highways is affected by the narrowness of the roads and the need to keep accesses clear. Even so, I saw streets in the vicinity provide significant space for parking.
17. LP policy PSP16 sets a standard for HMOs of 0.5 car parking spaces per bedroom, rounded up to the nearest number of spaces. The policy goes on to say that parking can either be provided within the property or on a street where there is evidence of available spaces during evenings and weekends.
18. The appeal drawings show 2 spaces in the rear garden. I am satisfied these would be of an adequate size and position to accommodate 2 cars. Internally, the separate garage measures less than 6m x 3m and so it cannot be counted as a parking space.
19. The proposed on-site parking would be 2 spaces short of the 4 spaces required under the terms of LP policy PSP16. However, the appellant has carried out parking surveys on roads within 200m of the appeal property in order to ascertain whether there is roadside parking capacity. These surveys were carried out in July 2022 on a Saturday late morning and early afternoon and on a Tuesday evening. According to the appellant, the surveys showed an average spare capacity on local roads of 117.5 spaces during the Saturday survey periods. During the Tuesday survey 146 spaces were identified. These findings suggest there is significant capacity for street parking that would be sufficient to address the small shortfall in on-site parking to meet the needs of the proposed HMO.
20. The Council's concern is that surveys carried out in July would be at a time when university students would have vacated local properties, so leading to less street parking than normal. However, the Council's Parking Survey Technical Advice Note 2022 only provides guidance on the times of day and the days of the week when parking surveys should be carried out. It provides no advice that precludes surveys from taking place at certain times of the year.

Moreover, there is no evidence that demonstrates how many local residences are occupied by university students or that shows the demand for on-street parking is significantly altered by the presence or absence of a local student population. As such, I am unconvinced that the appellant's parking surveys are invalid due to this reason.

21. Interested parties have raised concern that the surveys over-estimate the amount of total parking capacity present on local streets. The survey report sets out theoretical parking capacity but this assumes that vehicles can park on both sides of the road without impeding traffic. It is acknowledged that the real-world spare capacity in narrow streets will be lower than the theoretical maximum. This is a significant shortcoming of the survey as many of the local streets are narrow and do not allow for parking on both sides. Therefore, it is probable the street parking capacity figures in the survey are inaccurate.
22. Given the nature of the local streets and properties, I would expect there are times when inconsiderate parking takes place on local roads. However, even when taking account of the identified shortcoming of the parking surveys, the evidence strongly indicates that the small amount of overspill parking as a result of the proposal could be accommodated on nearby streets. Also, there is no substantive evidence that shows how associated parking is bound to prejudice highway safety or cause harm to the amenity of nearby residences.
23. For these reasons, I conclude that adequate parking would be provided to serve the development. In these respects, it would accord with LP policies PSP16 and PSP39 as well as policy CS8 of the South Gloucestershire Local Plan Core Strategy 2013. Amongst other things, these look to ensure development is supported by adequate parking facilities. Acceptability in these regards is a neutral factor in my assessment.

Other Matters and Planning Balance

24. The proposal would provide 2 additional bedrooms compared to the existing situation. As such, it would make a modest contribution towards the supply of housing for smaller households and single persons.
25. The development would be acceptable in terms of parking. However, it would be contrary to LP policies that seek satisfactory living conditions for residents in terms of private external space provision. The modest benefits of the scheme fail to justify a decision other than in accordance with the development plan.

Conclusion

26. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR