



Appeal Decision

Site visit made on 19 June 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/Z0116/W/23/3314048

9 Carrington Road, Bristol, BS3 2AQ

- 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 Ms Caroline Bowler against the decision of Bristol City Council.
 - The application Ref 22/01032/F, dated 3 March 2022, was refused by notice dated 6 July 2022.
 - The development proposed is change of use from a single Dwelling House (Use Class C3) to a small six-bedroom House of Multiple Occupation (HMO) (Use Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site falls within the area covered by the South Bristol Article 4 Direction, which came into force on 29 June 2020. This removes permitted development rights for the change of use of a single dwelling house in use class C3, to a small house in multiple occupation (HMO) in use class C4.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupants of 10 Carrington Road and 9 Friezewood Road.

Reasons

4. The appeal site is a mid-terrace dwelling situated in a residential road of terraced dwellings. In common with others on the same side of the road, the appeal dwelling has a small front yard, modest rear garden and no on-site parking. The dwellings on the opposite side of the road have a parking area to the front and larger rear gardens. The appeal dwelling has previously been extended into the roof, but the proposal does not include any additional extension. Proposed internal works would create a 6 bedroom HMO with a shared kitchen, living and dining area.
5. Policy DM2 of The Bristol Local Plan Site Allocations and Development Management Policies (Adopted 2014) (SADMP) relates to Residential Sub-divisions, Shared and Specialist Housing. It seeks to ensure that the residential amenity and character of an area is preserved and that harmful concentrations of HMOs do not arise. It specifies that harmful concentrations would arise where a development would reduce the choice of homes in the area, or exacerbate existing harmful conditions, including through excessive noise and disturbance.

6. The Bristol Supplementary Planning Document, Managing the Development of Houses in Multiple Occupation (Adopted November 2020) (SPD) provides specific guidance on the implementation of Policy DM2. It identifies situations where harmful concentrations of HMOs are likely to arise at a neighbourhood area level and at a local street level.
7. The Council acknowledge that the proposal would not result in a harmful concentration of HMOs at neighbourhood area level as the percentage would remain below the 10% set out in the SPD. Consequently, the proposal would not have a harmful impact on the housing mix at the neighbourhood level.
8. However, the Council state that there would be a harmful concentration at the street level due to sandwiching. The SPD states that potential sandwiching situations include where up to three single residential properties in a street would be located between two single HMO properties, and where there are single HMO properties in any two of the locations, adjacent, opposite and to the rear of a single residential property.
9. The Council has indicated that there is a licenced HMO at 11 Friezewood Road. Therefore, 10 Carrington Road would have the appeal site adjacent and 11 Friezewood Road to the rear of it. In addition, 9 Friezewood Road would have the appeal site to the rear and 11 Friezewood Road adjacent to it. Using the assessment guidance set out in the SPD, the proposal would therefore result in both 10 Carrington Road and 9 Friezewood Road being sandwiched between HMOs. In accordance with section 4.1 and figure 3 of the SPD, the narrow lane between the rear of the properties does not negate this being a sandwiching situation.
10. The appellant accepts that 11 Friezewood Road is a licenced HMO. However, they argue that it was licenced after the Article 4 Direction came into force, but does not benefit from the required planning permission, so should not be included in the sandwiching assessment. As set out in section 6.1 of the SPD, an HMO must have a licence if it is occupied by 5 or more people, but the planning status of an HMO cannot be considered when making a decision on whether to grant or refuse a property licence. Therefore, a HMO licence can be granted regardless of the planning situation and they sit under separate legislation.
11. Details of the licencing and planning status of surrounding dwellings is not before me. The Council have powers to take planning enforcement action against a HMO which does not have the required planning permission. Whether or not to take enforcement action is for the Council to decide and is not a matter I can consider under this s78 appeal. The Council and Appellant both acknowledge that 11 Friezewood Road is a licenced HMO, therefore, regardless of whether it has planning permission, it needs to be considered in my assessment of sandwiching.
12. The appellant also indicates that 13 Carrington Road and 5 Friezewood Road (and others in the area) are licenced HMOs that do not have planning permission. I do not have details of these properties and they were not identified by the Council. If they are HMOs then it adds further to the sandwiching effect on 10 Carrington Road and 9 Friezewood Road and means that 11 and 12 Carrington Road would also be sandwiched as a result of the proposal.

13. 2 single dwellings would be sandwiched between HMOs as a result of the proposal. This is a material consideration in assessing the impact of the proposal on neighbouring living conditions. The occupiers of an HMO are likely to lead lives which are independent from one another, whereas a family occupying a single dwelling are more likely to carry out day to day activities together as a household. 6 individual people, in the 6 HMO bedrooms, 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 single dwelling, even one occupied by a large family. The increased level of activity would lead to an increased level of general noise and disturbance. This would be particularly intense for the occupants of 10 Carrington Road and 9 Friezewood Road, who would experience the cumulative impact, as they would be sandwiched between two HMOs. Consequently, the development would generate unacceptable levels of noise and disturbance which would be detrimental to the living conditions of the occupants of 10 Carrington Road and 9 Friezewood Road.
14. Although not listed in the reason for refusal, the Council officer report states that the proposal would also be contrary to Policies DM30 of the SADMP and BCS21 of the Bristol Development Framework Core Strategy (Adopted 2011) (CS). Amongst other things these seek to ensure that development is designed in a way that safeguards the amenity of neighbours. As set out above, the proposal would have a harmful impact on neighbour amenity.
15. The appellant has proposed a HMO management plan which they say would ensure the proposal did not result in anti-social behaviour, noise pollution or waste issues. However, as the noise and disturbance would be likely to arise from the normal way in which a HMO property with 6 bedrooms would be used, the proposed management plan would not adequately mitigate the impact on neighbours. In addition, the plan would need to be secured by a planning condition and such a condition would not be reasonable or enforceable.
16. I conclude that the proposed development would cause unacceptable harm to the living conditions of the occupants of 10 Carrington Road and 9 Friezewood Road, with regard to noise and disturbance. Consequently, the development would not comply with Policies DM2 and DM30 of the SADMP and BCS21 of the CS, or the guidance contained in the SPD. Together, amongst other things, these policies seek to ensure that neighbour amenity is safeguarded, and that development does not result in harmful concentrations of HMOs at the local street level, particularly in regard to the sandwiching of single dwelling houses between HMOs.
17. However, as the proposal would not have a harmful impact on the housing mix at the neighbourhood level, I find no conflict with Policy BCS18 of the Bristol Development Framework Core Strategy (Adopted 2011) (CS). This seeks to ensure that residential development maintains or contributes to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.

Other Matters

18. The site is in a sustainable location with good access to services and public transport and can provide adequate bike storage. However, this does not overcome the harm and policy conflict which I have identified.

Conclusion

19. 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 MSc MRTPI

INSPECTOR