



Appeal Decision

Unaccompanied site visit made on 8 September 2023

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/Z0116/C/22/3313946

20 Mount Pleasant Terrace, Bristol, BS3 1LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Andrew Thickett against an enforcement notice issued by Bristol City Council.
- The notice, numbered DJM/GD04.327, was issued on 29 November 2022.
- The breach of planning control as alleged in the notice is without the grant of planning permission the change of use from Use Class C3 to House in Multiple Occupation Use Class C4.
- The requirement of the notice is to cease the use of the property as a House in Multiple Occupation Use Class C4 and return to Use Class C3.
- The period for compliance with the requirement is 10 months.
- The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed and the enforcement notice upheld.

Main Issue

2. An appeal on ground (a) is that planning permission should be granted for what is alleged in the notice. The main issue is whether the change of use to an HMO would contribute to levels of activity likely to cause disturbance to the living conditions of local residents.

Reasons

3. The appeal property is a small, terraced house in a residential area of similar properties and is located in the Bedminster Conservation Area.
4. In May 2022, a s78 planning appeal was dismissed for the proposed change of use of 20 Mount Pleasant Terrace from C3 to C4 (APP/Z0116/W/21/32888760). The Inspector considered that the proposal would compromise the intentions of the Council's Supplementary Planning Document 'Managing the Development of Houses in Multiple Occupation' as it would not comply with the objective of avoiding 'sandwiching' between existing HMOs. The SPD's street level assessment indicates that if up to three single residential properties are sandwiched between two single HMOs, this is likely to result in a harmful concentration of HMOs. The Inspector stated at paragraph 7 that "It was agreed by the main parties that two properties, Nos 16 and 18, are sandwiched between No 14 (an existing HMO) and the appeal site which breaches the SPD's Street Level requirement".

5. The appellant now believes that the Inspector was incorrect in her assumption as the Council failed to disclose that there are four single residential properties between Nos 14 and 20 as both Nos 16 and 18 have been split into '2 residential multi-unit apartment blocks'.
6. The Council accepts that planning permissions was granted in 2002 and 1992 and implemented, for conversion of the two neighbouring properties at Nos 16 and 18 into two residential units each and that these four units exceed the three unit minimum set out in the SPD. The Council also accepts that the planning officer for the application leading to the earlier appeal was unaware of these permissions.
7. The situation that exists appears not to breach the SPD's approach to sandwiching at first reading but it does not accord the spirit of the policy.
8. The properties at Nos 16 and 18 were originally small two-storey dwellinghouses like others in the terrace but now contain two units of accommodation each. This would have led to an increase in the level of activity and potential noise and disturbance through the comings and goings of the occupants in this part of the street, which would be exacerbated by the use of the appeal property as an HMO.
9. The reasons for issuing the enforcement notice specifically refer to the change of use being contrary to the SPD and to Policy DM2 of the Site Allocations and Development Management Policies (2014). Policy DM2 relates to the general criteria for the residential sub-divisions, shared and specialist housing. The policy does not permit new HMOs or the intensification of existing HMOs where development would create or contribute to a harmful concentration within the locality. A harmful concentration is identified as a worsening of existing harmful conditions or a change to the housing mix that reduces housing choice.
10. In addition to the SPD, the previous Inspector also considered the specific impacts on Nos 16 and 18 as a result of the appeal scheme and concluded that it would have a significantly harmful effect on the living conditions of the occupiers of those properties. Furthermore, the Inspector recognised that use as an HMO would lead to a loss of a family dwelling which would have contributed to housing affordability, mix and choice locally. Nothing appears to have changed since that decision to draw a different conclusion in this appeal.
11. Whilst the Council failed to interpret the SPD strictly in accordance with the facts, of which they should have been fully aware, the change of use to Class C4 remains contrary to Policy DM2 and to which I attach considerable weight.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

P N Jarratt

INSPECTOR