



Appeal Decision

Site visit made on 20 February 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2024

Appeal Ref: APP/Z0116/W/23/3321613

489 Gloucester Road, Horfield, Bristol BS7 8UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Elizabeth Blackwell Properties Ltd against the decision of Bristol City Council.
 - The application Ref is 22/05075/P.
 - The development proposed is outline application for demolition of the existing buildings (4no. Houses in Multiple Occupation - Class C4 - and 1no. flat - Class C3) and erection of new building comprising residential apartments (Class C3) and small Houses in Multiple Occupation (Class C4); associated cycle parking, waste storage, landscaping and other works (all matters reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application was submitted in outline with access, appearance, landscaping, layout and scale of the proposed development reserved to be determined at a later date. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative.
3. On submission of the appeal scheme the appellant provided updated reports reference: Ecological Impact Assessment January 2023 and Biodiversity Net Gain Results January 2023. These updated reports have taken account of more recent standards and the appellant contends that a biodiversity net gain can be achieved on site. These updated reports were available when the appeal was submitted and the Council had the opportunity to comment. They provided clarity rather than any significant changes to the proposed scheme. Accordingly, no one would be prejudiced were my decision to have had regard to these amended reports.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the mix and balance of housing in the area,
 - the effect of the proposed development on the character and appearance of the area,

- the effect of the proposed development on the living conditions of the occupiers of 491 Gloucester Road and 4 Filton Avenue with regard to outlook,
- the effect on highway safety with regard to demand for on-street parking,
- whether the proposed development provides appropriate refuse and recycling storage and collection; and
- the effect on biodiversity.

Reasons

Mix and balance of housing in the area

5. Policy BSC18 of the adopted Bristol Development Framework Core Strategy 2011 (CS) requires new development proposals to maintain, provide or contribute to a mix of housing tenures, types and sizes in order to support the creation of mixed, balanced and inclusive communities. The policy, amongst other matters, seeks for development to help redress any existing housing imbalances.
6. Policy DM2 of the Bristol Local Plan Site Allocations and Development Management Policies Local Plan Adopted July 2014 (LP) relates to residential sub-divisions, shared and specialist housing and amongst other things, seeks to ensure that harmful concentrations do not arise that would affect any of a set criteria. Amongst other things, these include: Levels of on-street parking that cannot be reasonably accommodated or regulated through parking control measures; or Cumulative detrimental impact of physical alterations to buildings and structures; or Inadequate storage for recycling/refuse and cycles. I will return to these matters below.
7. The Council's Managing the development of houses in multiple occupation supplementary planning document November 2020 (HMO SPD) provides further guidance and quantifies what is considered to be a harmful concentration as outlined in Policy DM2.
8. There are two principles outlined, local level and area level. In relation to local level, a harmful concentration is where a use class C3 dwelling is between two HMO's which would not be the case for the appeal proposal before me. At area level, a harmful concentration is where there is a greater than 10% concentration of HMO's within a 100m radius of a site.
9. According to the Council's data, that includes the number of licensed HMO's and any HMO's that have been granted planning permission and do not currently have a license, 25.62% of residential properties within a 100m radius to the appeal site are HMO's. Therefore, using the definition within the HMO SPD, the community and choice of housing around the appeal site is already significantly imbalanced by the concentration of HMO's.
10. I acknowledge that the proposed development includes Class C3 dwellings and the appellant's assertion that the proposed development would only result in a marginal percentage increase of HMO's, but it would nevertheless result in an increase that would exacerbate the existing conditions and undermine the objectives of policies, BSC18, DM2 and the HMO SPD which attracts significant weight against the appeal scheme.

11. I therefore conclude that the proposed development would harmfully exacerbate the existing concentration of HMO's within the area to the detriment of securing mixed, balanced and inclusive communities. It would be contrary to Policy BSC18 of the CS, Policy DM2 of the LP insofar as reducing the choice of homes in the area by changing the housing mix and Paragraph 128 of the Framework.
12. The proposal would also be contrary to guidance contained within the HMO SPD.

Character and appearance

13. The appeal site contains two semi-detached dwellings which is set within a corner plot on the corner of Gloucester Road and Filton Road. The dwellings are in use as C4 HMO's and there is also a C3 dwelling within the site.
14. The appeal site is located within a predominantly residential area with most dwellings nearby being two storey and terraced. The result is a strong uniformity and rhythm within the street scene.
15. The Council's Urban Living SPD Making successful places at higher densities November 2018 (Urban Living SPD) sets out optimal densities for major development, which is expressed as net dwellings per hectare. The proposed development would have a density of 141 dwellings per hectare, which is not disputed by the appellant.
16. The appeal site is identified as being located on the edge of the Inner Urban Area identified within the Urban Living SPD, which suggests that 120 dwellings per hectare is the optimum density for this location. Therefore, the appeal proposal would be at a greater density than what is considered to be optimum for the location.
17. I note that the appellant has referred to a number of examples of similar densities nearby. However, these all appear to relate to minor developments which are not comparable to the appeal scheme before me.
18. The illustrative plans show that the appeal proposal would result in a part three storey and part four storey building. While these plans are illustrative, to get the volume of development proposed onto the site it is reasonable to assume development of that nature and form would be required.
19. This would be at odds with the predominant two storey character of other dwellings nearby and would be highlighted by the site's prominent corner position and built form close to the junction. I acknowledge that Filton Avenue is at a lower ground level to Gloucester Road and there are some two and a half storey dwellings, however, the height difference of the four storey section would still stand out in the street scene, even if established building lines are followed.
20. The appellant has suggested that there is scope for significant landscaping to be planted around the perimeter of the site. However, due to the amount of built form that could be reasonably expected within the appeal site and prominence of the site's corner position, I am not convinced that the site could be sufficiently screened.

21. I therefore conclude that the proposed development would be likely to harm the character and appearance of the area. It would be contrary to Policy BCS21 of the CS, Policies DM2, DM21, DM26, DM27 and DM29 of the LP and Paragraph 135 of the Framework.
22. The proposal would also be contrary to guidance contained within the Council's HMO SPD and Urban Living SPD which amongst other things, seek to ensure consideration is given to layout.

Living conditions

23. 491 Gloucester Road and 4 Filton Avenue are two storey end of terraced properties which are located next to and share a boundary with the appeal site. The rear gardens of both properties also share a boundary with each other.
24. The proposal would be sited close to the boundaries with No's 491 and 4 with the illustrative plans showing both the three storey and four storey elements being close to the boundary. It is likely that due to the proximity, and overall scale, bulk, mass and height of the proposal that it would be dominant from the rear windows and gardens of these properties.
25. There are several existing extensions and outbuildings within the appeal site, close to the boundaries with these properties. However, as they are single storey, they are not highly visible from the rear of these neighbouring properties. The result is an open aspect between these properties and the appeal site.
26. While the rear of the properties is angled slightly away from the appeal site, the closeness of the appeal proposal, combined with its overall height would erode this open aspect. The proposal would therefore create an overbearing and oppressive structure which would result in a harmful outlook for the occupiers of these properties.
27. I therefore conclude that the proposed development would be likely to harm the living conditions of neighbouring occupiers. It would conflict with Policy BCS21 of the CS, Policies DM27 and DM29 of the LP and Paragraph 135 of the Framework. Amongst other things, these seek to ensure that development safeguards the amenity of existing development.

Highway safety

28. The appeal site is located in an area whereby there are a number of restrictions on parking which include signalised pedestrian crossings that are double yellow lined as well as loading restrictions on Filton Avenue at differing times during the day.
29. The majority of dwellings nearby have no off-street parking and as such rely on the surrounding roads to park their cars on the street. As a result, demand for on street parking in the area is high.
30. The appellant considers that the proposed development could generate up to eight cars, which is based on the number of cars currently owned at the HMO, multiplied to take into account the number of new bedrooms. The demand is considered to be an additional four cars when compared to the existing situation on site. The Council consider that further information is required,

taking into account of census data to come to a more accurate figure of potential car ownership.

31. However, even if I were to accept the appellant's figure of eight cars, it is clear that based on the information provided that there are a very limited number of on street car parking spaces close to the appeal site. The surveys carried out across two days found that there were two car parking spaces within 150m of the appeal site. I am also mindful of the number of concerns raised by residents which suggest that the area experiences significant parking stress. As such, it is unlikely that the amount of on street parking would be able to accommodate the proposal.
32. The proposal would increase the pressure for on-street parking and exacerbate the existing situation. The increased demand may also lead to indiscriminate parking that could block driveways and further add to the parking difficulties faced by residents.
33. I acknowledge that the existing development provides no parking, that a space could be created through the reinstatement of a dropped kerb and that car ownership may be restricted by the HMO license. Also, the appeal site is located close to a number of services with access by means of transport other than a private motor vehicle, including buses, walking and cycling. These could be attractive factors for potential future occupiers that do not have access to a private motor vehicle. However, these factors do not mitigate the harm arising from the increased demand for parking.
34. I therefore conclude that it has not been demonstrated that the proposed development would not result in unacceptable harm to highway safety. It would be contrary to Policy BCS10 of the CS, Policy DM23 of the LP and Paragraph 115 of the Framework. Amongst other things, these seek to ensure that development create places and streets where traffic and other activities are integrated and does not give rise to unacceptable traffic conditions.
35. The proposal would also be contrary to guidance contained within the HMO SPD which amongst other things, seeks to prevent harmful impacts resulting from congested on-street parking.

Refuse and recycling facilities

36. The Council are concerned that a safe, convenient and well-designed solution with regards to refuse and recycling storage and collection has not been demonstrated. However, the proposed development is in outline form, with all matters reserved. In this regard layout it not a consideration as part of the appeal before me.
37. The appeal site is large and has sufficient space surrounding the site to enable an appropriate storage to be established on the site with more details to be agreed at reserved matters stage.
38. It is also noted that the appeal site has existing requirement for a large amount of waste collection. Which is provided in a similar position to what is illustrated on the plans for the appeal before me. I acknowledge that the appeal site is close to a busy junction, however, further details at reserved matters stage, combined with suitably worded conditions could secure an appropriate solution for future occupiers.

39. I therefore find that the proposed development would be able to provide an appropriate storage solution for refuse and recycling. I find no conflict with Policies BCS10 and BCS15 of the CS, Policies DM23 and DM32 of the LP and Paragraph 135 of the Framework. Amongst other things, these seek to ensure that development creates streets where activities are integrated, address waste and recycling and provide sufficient capacity for refuse and recycling.
40. I also find no conflict with the Council's HMO SPD which seeks to ensure that consideration is given to refuse and recycling storage.

Biodiversity

41. The appellant has submitted an amended environmental impact assessment with the appeal. It demonstrates that the appeal proposal can accommodate a net gain in biodiversity. I am satisfied that the measures proposed could be secured by a suitably worded planning condition.
42. I therefore conclude that the proposal would not harm biodiversity. I find no conflict with Policy DM19 of the LP and Paragraph 180 of the Framework. Amongst other things, these seek to ensure that development avoids harm to identified habitats, species and features of importance and seeks to ensure a net gain in biodiversity.

Other Matters

43. The appellant has drawn my attention to several appeal decisions in order to support the appeal proposal before me. I do not have the full details of these appeals before me and in any case, each appeal should be considered on its own merits.
44. However, in respect of Land to the rear of 85 Whiteladies Road¹, this appeal related to a much smaller scheme than the appeal before me. It was also located in a different area of Bristol where the proportion of HMO's differed.
45. In regard to 71 Arley Hill² the proposal is for a smaller scheme and the percentage of HMO's within vicinity of the appeal site differs to the appeal before me.
46. I also note reference have been made to appeal ref: 2206157, however, I have not been provided with a copy of this appeal decision in order to make any comparisons with the appeal scheme before me.
47. The appellant has also referred to several planning applications in order to support the appeal before me. I do not have the full details of these applications before me and in any case, each case should be considered on its own merits.
48. However, in respect of 2 Filton Grove and 56 Filton Avenue the proposed development is for a much smaller scheme that differs from the much larger appeal scheme before me.
49. In regard to 86-92 & 96-102 Stokes Croft, this was for a large number of student accommodation and while the percentage of HMO's was over the 10% threshold, this increase was marginal when compared to the appeal scheme

¹ APP/Z0116/W/20/3260047 and APP/Z0116/Y/20/3260048

² APP/Z0116/C/22/3312417, APP/Z0116/C/22/3312418 and APP/Z0116/W/22/3312416

before me. The Council balanced the sites' location and found that it would be more suitable for shared housing, rather than family housing based on the proximity to night time uses which differs from the location of the appeal site before me.

50. 147-149 Gloucester Road is located over 1km away from the appeal site, closer to the Gloucester Road Town centre where densities may be different. The application also proposed student accommodation and retail which differs from the appeal before me.
51. In regard to land to the rear of 1 Filton Avenue, from site observations, this relates to the erection of two storey dwellings which differs from the three and four storey building proposed.
52. I note that 101 Queens Road illustrates how glazing, specific materials and designs can be used to soften the appearance of a buildings roof. However, appearance is a reserved matter and as such, is not before me to consider for the appeal.
53. The Council have found that the proposed development would not unacceptably harm sunlight of daylight for the occupiers of neighbouring properties. I have no reason to conclude otherwise, however these are neutral matters.

Planning Balance

54. The proposal would be contrary to Policies BSC18, BCS10 and BCS21 of the CS and Policies DM2, DM21, DM23, DM26, DM27 and DM29 of the LP. These Policies are consistent with the Framework in focusing on making efficient use of land, ensuring developments function well and add to the overall quality of the area with a high standard of amenity for existing users and create places that are safe, secure and attractive.
55. The Council conceded that it is unable to demonstrate a 5-year supply of deliverable housing sites in accordance with Paragraph 77 of the Framework. The figure quoted by the appellant is between a 2.24-2.45 year supply which is a substantial shortfall. The figure quoted is not disputed by the Council.
56. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the Policies which are important for determining the application should be deemed out-of-date and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Policies in the Framework taken as a whole.
57. The proposed development would contribute to the supply of new homes in a situation where there is a shortfall. The proposal would result in a net increase of 11 homes, when taking into account the increase in HMO rooms. This attracts significant weight in favour of the proposed development. The proposal would also support the creation of jobs directly and indirectly during construction and result in future occupiers spending in the locality. It is also proposed that the building would include air source heat pumps and PV arrays which would reduce carbon emissions.
58. In this instance, the effect on the mix and balance of housing in the area, adverse impacts on the character and appearance of the area and harm to the living conditions of the occupiers of neighbouring properties would significantly

and demonstrably outweigh the very modest benefits. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.

59. Consequently, when assessed against the Policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.

Conclusion

60. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

D Wilson

INSPECTOR