



Appeal Decision

Site visit made on 26 June 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2024

Appeal Ref: APP/Z0116/W/23/3335660

5 East Street, Avonmouth, Bristol BS11 9AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Granite and Stone South West Ltd against Bristol City Council.
 - The application Ref is 23/04034/F.
 - The development proposed is the erection of a two-storey side extension, single-storey rear extension, and 2no. dormer roof extensions, and the change of use to a 9-person large dwelling house in multiple occupation (*sui generis*).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). I am satisfied that no party would be prejudiced by making reference to the Framework in this decision.
3. The appeal is against a failure of the Council to give notice of its decision on the planning application Ref 23/04034/F within the prescribed period. As such, there is no decision notice.
4. The Council have indicated that had they would have been minded to refuse the application had they made a formal determination, and raise a number of issues. These have informed the main issues for this appeal. The issue of flood risk was raised, however following the submission of additional information (a sequential test), the Council has confirmed that it is satisfied that this issue is addressed and no longer wishes to contest this particular issue.

Main Issues

5. As such, the main issues in this case are:
 - the effect of the development on the living conditions of the neighbouring occupants, with respect to privacy, noise and disturbance; and
 - the effect of the development on highway safety.

Reasons

Living Conditions

6. The existing property is a two bed end of terrace dwelling. The proposed 9 bed house in multiple occupation (HMO) would therefore represent a significant increase in size.
7. Occupants within a HMO would often have individual lifestyles resulting in comings and goings at different times of the day and night when compared with a single-family dwelling. Such activity can increase the potential for noise and disturbance and be detrimental to the living conditions of neighbouring properties, particularly in what I observed to be mostly otherwise a C3 terrace.
8. The evidence put forward by the Council indicates that the proposal would not lead to a harmful concentration of HMO's within the locality. However, the occupation of the dwelling by 9 unrelated individuals would lead to a level of activity that, in my view, would be significantly greater than that from a single household occupying the existing modest host property. This would be especially evident in communal areas directly next to the boundary with the attached neighbour, including the staircase, hallway, and garden areas. In addition, there is potential for more visitors to the property, which would increase the potential for noise and disturbance causing nuisance to the neighbouring occupants. This would therefore significantly increase the risk of noise and disturbance.
9. Whilst the property could be extended under permitted development rights to allow for occupation by a larger family, comprehensive details of such a scheme are not before me and it would likely not provide a large HMO as is proposed here. It is not therefore a realistic prospect if the appeal were dismissed and as such, I can only give limited weight to this as a fall back option. Notwithstanding this, a family unit, even of a larger size with children would not have the same impact as 9 individual residents as set out above.
10. No technical information is before me in relation to noise transference between the appeal site and the neighbour, and as such, a condition in relation to insulation would not be precise nor reasonable. In any case, this would not resolve the likelihood of a material increase in external noise and disturbance with the comings and goings of the occupants who would be likely to be acting independently, compared to a family dwelling.
11. The appeal decision¹ referenced by the appellant in relation to noise related to a proposed conversion of a 6 bed dwelling into a 9 bed HMO, and as such, the potential increase in noise and disturbance is not comparable to the proposal before me. There is no evidence before me that the mandatory HMO license or environmental protection legislation would adequately protect the amenity of neighbouring residents and address planning policy requirements.
12. The properties to the rear of the appeal site are overlooked by the rear of the terrace along East Street. As such, the additional proposed rear facing windows, which would offer oblique views over these properties at a greater distance, would not increase the level of existing overlooking, and would not harm the living conditions of the residents of these properties in this respect.

¹ Appeal reference APP/Z0116/W/22/3309465

13. Nevertheless, I conclude that the development would have a detrimental effect on the living conditions of the neighbouring occupants, with respect to noise and disturbance. This would conflict with the protection of living conditions goals of Policy BCS21 of the Bristol Core Strategy (2011) (CS), Policy DM2 of the Site Allocations and Development Management Local Plan (2014) (LP); and the Managing the Development of Houses in Multiple Occupation Supplementary Planning Document (2020).

Highway Safety.

14. The proposed extension would project into the existing side lane. There would remain sufficient space and width to provide vehicular access to the commercial property beyond. There would also be sufficient space for a satisfactory safe access for pedestrians and cyclists to the rear garden/bin/cycle area, and for cars to comfortably avoid the telecoms cabinet sited at the rear and centre of the highway.
15. However, given the reduced width of the access lane, there would be limited room for manoeuvring into and out of the proposed parking spaces. No specific tracking plans or substantive details are provided, and it is likely that given this reduced width, a high number of manoeuvres would be required to exit the parking spaces particularly if the adjacent space was taken. This would increase the possibility of driver error. However, there is sufficient room for wider parking spaces which would allow for easier access, and a condition could secure a revised parking layout in this regard, were I minded to allow the appeal.
16. Given the room available for the proposed parking spaces, I am satisfied that 4 larger spaces would be able to be provided in a manner which allows safe and accessible parking provision.
17. Notwithstanding this, I observed that a number of spaces available on the street and nearby streets at the time of my visit. Whilst I acknowledge third party comments about this issue, there is no substantive evidence before me that on-street car parking within the area causes congestion within the road or has resulted in safety issues to users of the highway. Accordingly, and in the absence of evidence to demonstrate otherwise, it is unlikely that on-street car parking in the area has reached saturation, or that which does exist results in highway safety issues.
18. As such, even if a lesser level of parking spaces to comply with the local plan provision levels is required, this could also therefore be secured through a condition, were I minded to allow the appeal. Either way, I conclude that the parking demands that would be likely to be generated by the proposal, would not have an unacceptable impact on highway safety or the flow of traffic in the locality.
19. As such, I conclude that the development would not harm highway safety and would meet the requirements of CS Policy BCS10 and LP Policy DM23 which collectively require safe and accessible parking provision. There would also be no conflict with the highway safety objectives of the National Planning Policy Framework (the Framework).

Planning Balance and Conclusion

20. Set against the harm identified there would be limited social and economic benefits associated with the proposal, from the construction process and occupation of the HMO. However, no additional separate residential units would be provided, and the support a HMO use would provide to the local economy would be insignificant. The lack of harm identified in other respects, such as the proportion of HMO's in the vicinity or standard of accommodation, is to be expected in any development and does not weigh in favour of the proposal.
21. The Framework seeks to safeguard the amenity of existing development by promoting health and wellbeing. As such the conflict in relation to noise and disturbance with BCS Policy BCS21 and LP Policy DM2 should be given significant weight in this appeal.
22. The Framework gives substantial weight to the value of using suitable brownfield land within settlements, and supports the efficient use of land. Nevertheless, given the conflict identified above, the development would conflict with the development plan as a whole.
23. The Council do not dispute it is falling significantly short of the required housing land supply, set out by the appellant at 2.2-2.4 years, and that there is an urgent need for housing in the Bristol area. Therefore, having regard to Framework footnote 8, Framework paragraph 11d) applies.
24. As described above the benefits associated with the proposal would be limited, even taking account of the shortage of supply and increased demand for HMO's/single person household accommodation within this area, the health benefits of communal areas and any potential reduced comparable energy use over a 9 flat development. The Framework also gives substantial weight to the living conditions of existing residents.
25. Consequently, the harm to the living conditions of neighbouring occupants would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
26. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed, and planning permission is refused.

B Phillips

INSPECTOR