

# Appeal Decision

Site visit made on 30 July 2024

**by K Reeves BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 October 2024**

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**Appeal Ref: APP/Z0116/W/23/3332818**

**5 Jocelyn Road, Horfield, Bristol BS7 0HW**

- 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 AJ Hayes Group Ltd against Bristol City Council.
  - The application Ref is 23/03574/F.
  - The development proposed is change of use from a dwellinghouse used by a single person or household (C3a) to a small dwellinghouse in multiple occupation (C4) for 3-6 people.
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## Decision

1. The appeal is dismissed and planning permission is refused for change of use from a dwellinghouse used by a single person or household (C3a) to a small dwellinghouse in multiple occupation (C4) for 3-6 people.

## Preliminary Matters

2. The Council did not determine the application. However, it has indicated that had it been able to issue a decision it would have refused permission on the grounds that the proposed development would result in an unacceptable concentration of Houses in Multiple Occupation (HMOs) in the area, unacceptable provision of waste and bicycle storage, and unacceptable impacts to highway safety.
3. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. This decision is based on the current Framework and has taken account of any further representations made on the revisions.

## Main Issues

4. The main issues are:
  - whether the proposal would lead to an unacceptable concentration of HMOs in the area, with particular regard to the effect of the proposal on the mix and balance of housing;
  - whether the proposal would provide appropriate facilities for the storage of refuse and recycling;

- whether the proposal would provide appropriate facilities for the storage of bicycles; and
- the effect of the proposed development on highway safety.

## **Reasons**

### *Concentration of HMOs*

5. The appeal site consists of a mid-terrace, five bedroom dwelling located within a predominantly residential area. The rows of terrace housing along Jocelyn Road are set back from the road by front gardens or parking areas. Based on the evidence before me, including what I saw on site, there are very few HMOs in Jocelyn Road.
6. Policy BCS18 of the Bristol Development Framework Core Strategy 2011 (CS) sets out that new residential development should maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.
7. Policy DM2 of the Site Allocations and Development Management Policies Local Plan 2014 (LP) seeks, in part, to prevent development that would create or contribute to a harmful concentration of HMOs within a locality as a result of exacerbating existing harmful conditions or reducing the choice of homes in the area by changing the housing mix.
8. The Council's Supplementary Planning Document 'Managing the Development of Houses in Multiple Occupation' (2020) (SPD) provides supporting guidance on the application of Policies BCS18 and DM2 and what constitutes harmful concentrations of HMOs at a street and neighbourhood level.
9. The SPD sets out that more than 10% of the total housing stock of the neighbourhood area (a 100 metres radius of the application property or site) being occupied as HMOs would likely result in a harmful concentration of HMOs and unlikely be consistent with the development plan policies. It provides a clear threshold to apply to assess when the number of HMOs is likely to result in harm to the mix and balance of housing in the city. As such, it is relevant to, and a material consideration in, the determination of the appeal.
10. The Council asserts that there are 20 HMOs within a 100 metres radius of the appeal site, which represents 12.4% of the total properties in that radius. The appellant has explained that 6 HMO licences have been issued since the appeal was submitted and no planning permission has been granted for the use of those properties as an HMO. Although one of those licensed HMOs has been deemed as lawful by the Council. It is argued by the appellant that HMOs that do not benefit from planning permission should not be included in the calculation and there is therefore 14 HMOs within a 100 metres radius of the appeal site (9.3%).
11. The SPD confirms that the datasets used to calculate the proportion of dwellings that are occupied as HMOs in any given area include total identified dwellings (the denominator) and total identified dwellings in use as HMOs (the numerator) and that identified dwellings in use as HMOs includes all

licensed HMOs and all planning permissions and other authorisations for HMOs that are not licensed.

12. As such, I am content to use the Council's figure of 20 HMOs within the 100 metres radius of the appeal site. On this basis, the 10% threshold identified in the SPD is already breached and the concentration of HMOs in the area would increase from 12.4% to 13%. Whilst the threshold may be already breached and the increase would be marginal, there would be a reduction in the number of family homes and the additional HMO would exacerbate the imbalance of the community and choice of housing around the site.
13. The evidence indicates that there has been an increase in the need for single person households in the Bristol area. The proposal would provide housing for five single occupants. This type of accommodation could be particularly popular amongst the large student population in the city. However, the development plan and the SPD are clear in their intention to address and prevent any further imbalance in the mix and balance of housing in Bristol that can arise from an overconcentration of HMOs. The conflict with the development plan carries greater weight than the aforementioned material planning considerations.
14. My attention has been drawn to an allowed appeal for the construction of a six bedroom HMO at 85 Whiteladies Road<sup>1</sup>. However, that appeal is not directly comparable to the appeal before me as it involved the construction of a new HMO and therefore did not result in the loss of existing family or other housing nor a reduction in the choice of homes available within the area. As such, that appeal does not alter my above reasoning. In any event, I am determining the appeal on its own individual merits based on the evidence.
15. For these reasons, I conclude that the proposed development would exacerbate an existing overconcentration of HMOs in the area, which would have an adverse effect on the mix and balance of housing in the area. Consequently, the proposal would conflict with Policy BCS18 of the CS, Policy DM2 of the LP and the guidance contained with the Council's SPD, which collectively seek, in part, to create balanced and mixed communities and prevent harmful concentrations of HMOs.

#### *Storage for refuse and recycling*

16. The refuse storage for the proposed HMO would be located at the front of the property on the driveway. The space made available would be for two 180 litres refuse bins. Recycling would be stored in the storm shelter/porch and would involve storing boxes, bins and sacks on shelves.
17. Policy DM32 of the LP expects proposals for shared housing to include shared recycling facilities and refuse bins of sufficient capacity to serve the proposed development and as part of that, regard will be had to the location of the provision, including the need to provide and maintain safe and convenient access for occupants.
18. The Council's Waste and Recycling Storage and Collection Facilities Supplementary Planning Document (2022) provides guidance on refuse and

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<sup>1</sup> Appeal reference APP/Z0116/W/20/3260047

recycling storage for houses and buildings with fewer than 15 flats/bed spaces. The Council asserts that the proposal would conflict with the guidance as the recycling storage would involve storing containers on shelving higher than 500mm above floor level.

19. The guidance regarding the height that recycling containers should be kept at relates to development for between 7 and 14 flats/bed spaces. As the appeal proposal relates to less than 6 flats/bed spaces, the guidance does not strictly apply in this case and it is clear that the guidance does not envisage storage heights to be an issue for the quantum of development proposed. As such, the evidence before me does not sufficiently demonstrate that the proposal would not provide and maintain safe and convenient access to recycling storage by occupants.
20. For these reasons, I conclude that the proposal would provide appropriate facilities for the storage of refuse and recycling. Consequently, the proposal would comply with Policy DM32 of the LP, which seeks, in part, that all new development is accompanied by recycling and refuse provision of sufficient quantity and quality.

#### *Storage for bicycles*

21. The proposal includes the installation of three Sheffield stands that would provide safe and secure storage for six bicycles in the rear garden of the site. The rear garden is accessible via a track off Manx Road, which runs along the rear of the properties on Jocelyn Road.
22. The Council contends that the state of the track and no rear gate being shown on the submitted plans means that the only access to the bicycle storage in the rear garden would be through the house or they would be left at the front of the property.
23. However, the surface of the track is in an acceptable condition and there are no foreseen issues with riding or wheeling a bicycle down the track to the rear boundary of the appeal site. The gate located in the rear boundary would then allow access with a bicycle into the rear garden without the need to take it through the house.
24. There is a security gate across the track, and this separates Manx Road from the rear of the property. However, the appellant confirms that the current owner of the appeal site has a key to the gate and that all of the occupants of the HMO would be given a key. As such, the security gate does not represent a barrier to accessing the rear garden with a bicycle.
25. There would be suitable and convenient access to the rear garden to allow the storage of bicycles at the site without taking them through the house or being left at the front of the property. The Council's concern regarding this particular matter is therefore not supported by the available evidence.
26. For these reasons, I conclude that the proposal would provide appropriate facilities for the storage of bicycles. Consequently, the proposal would comply with Policy DM23 of the LP, which seeks, in part, the provision of an appropriate level of safe, secure, accessible and useable cycle parking provision having regard to the parking standards. The proposal would also

comply with the Framework, insofar as it promotes the opportunities for cycling and the secure storage of bicycles.

### *Highway safety*

27. The area to the front of the property is already set out for parking vehicles off the public highway. The site therefore already benefits from parking spaces. Additionally, refuse bins would likely be stored in this area of the site already as part of its use as a single dwellinghouse, as evidenced by the frontages of other residential properties along the road.
28. As such, the change of use of the property to an HMO would not lead to a material increase in the number of vehicles parked at the site, nor would it lead to a change in the available space for parking or the manner in which vehicles would park within the area to the front of the dwelling, including vehicles over hanging on to the pavement.
29. For these reasons, I conclude that the proposed development would not result in a material increase in the harm to highway safety. Consequently, the proposal would comply with Policy DM2 of the LP and the associated Appendix 2 of the LP, which collectively seek, in part, for development to include an appropriate level of safe, secure, accessible and useable car parking provision having regard to the parking standards.

### **Other Matters**

30. I note the appellant's concerns regarding the handling of the planning application and their reference to the consequences of delays in enforcement investigations. However, these are matters between the appellant and the Council and they have no bearing on the outcome of this appeal.

### **Planning Balance**

31. The evidence indicates that the Council cannot demonstrate a five year housing land supply with the current housing land supply understood to be between 2.2 and 2.4 years. In these circumstances, Paragraph 11(d) of the Framework states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. I have identified that the proposal would lead to an unacceptable concentration of HMOs in the area, and this would result in conflict with Policy BCS18 of the CS and Policy DM2 of the LP. The policies are generally consistent with the Framework's aim to ensure that there is an appropriate mix of housing types for the local community. As such, I afford the conflict with the development plan moderate weight.
33. I acknowledge that the proposal would bring some benefits in the form of social and economic benefits resulting from the provision of accommodation for multiple single people in a location that is close to facilities and employment opportunities. However, the development would be small scale and it would not result in a net increase in the supply of dwellings in the city.

As such, the benefits are afforded limited weight and would be significantly and demonstrably outweighed by the adverse impacts when assessed against the policies in the Framework taken as a whole.

### **Conclusion**

34. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal should be dismissed.

*K Reeves*

INSPECTOR