



Appeal Decision

Site visit made on 20 January 2025

by **Laura Cuthbert BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 February 2025

Appeal Ref: APP/F0114/W/24/3353679

32 The Oval, Bath BA2 2HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Braydon Dowding against the decision of Bath and North East Somerset Council.
 - The application Ref is 24/10907/FUL.
 - The development proposed is Proposed single storey rear extension and loft dormer extensions to accommodate a change of use from single dwelling C3 to House of Multiple Occupancy C4.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I have taken the revised Framework into account as part of the determination of this appeal.
3. The first reason for refusal states that the proposal would 'fail to be an energy efficient HMO'. This was because at the time of the determination of the application, the appellant had not carried out an updated Energy Performance Certificate (EPC) of the property. However, an updated EPC has been carried out which confirms that the property would now achieve an EPC 'C' rating. The Council has not disputed this updated EPC rating. Therefore, based on the evidence before me, I consider that this particular area of concern is no longer disputed and will not be discussed any further in my decision.

Main Issues

4. The main issues in this appeal are the effect of the proposal on:
 - the mix and balance of communities; and
 - the character and appearance of the area.

Reasons

Mix and balance of communities

5. The appeal site is situated within a relatively densely developed residential area. Policy H2 of the Bath and North East Somerset Placemaking Plan and Local Plan Partial Update (Placemaking Plan and LPPU) (adopted 2017) relates to Houses in Multiple Occupation (HMOs). It sets out a number of criteria where proposals for

HMO's would be refused and the Council allege conflict with a number of these, notably criteria i,ii and vii.

6. In addition, to support Policy H2, a Supplementary Planning Document 'Houses in Multiple Occupation' (the HMO SPD) (February 2023) sets out the Council's approach to the distribution and dispersal of HMOs. Criterion 2 of the HMO SPD sets out the 'Concentration Test' and states that 'planning permission would not be granted for a new or intensified HMO where HMO properties represent 10% or more of households within a 100 metre radius of the application property. If the application property tips the concentration of an area to 10% or more, the application will be refused'. The HMO SPD states that 'a threshold of 10% has been proposed, based on a number of factors including local evidence, a consideration of the suitability of the housing stock, public transport corridors and existing levels of HMOs'.
7. Furthermore, as set out in the SPD, the 100m radius of the application site is calculated from a central point in the property. For properties on the edge of the 100 metre radius, it will be included in the calculation where any part of its curtilage, including the property boundary, falls within the radius.
8. The Council have demonstrated that the proposal would result in 14 HMOs within a 100m radius, including 6 'clipped' HMO properties on the edge of the radius. This would result in an HMO concentration of 13.9%, which would clearly conflict with the 10% threshold set out in criterion 2 of the HMO SPD. The appellant has not provided any evidence to suggest any of the HMO's identified by the Council have been incorrectly classified. Therefore, I attach significant weight to this latest data which demonstrates that in these circumstances the 10% threshold would be exceeded. Consequently, an additional HMO would increase the HMO presence and therefore be contrary to supporting a balanced community in the area.
9. Whilst the existing HMO's are more concentrated on Coronation Avenue to the west, the mapping data provided by the Council shows that there are also a number of HMO's on The Oval, as well as Chestnut Grove and Ash Grove. Consequently, whilst the HMO's in the area would be spread across a number of streets, the proposal would still result in an unacceptable level of HMO density in a 100m radius. It would therefore result in the unacceptable loss of accommodation in a locality, in terms of mix, size and type, and would create an overconcentration of HMO's. It would unbalance the mix in the community, harming the character of the area. This would all be contrary to Policy H2, which seeks to prevent these issues.
10. The appellant carried out their own research prior to submitting the planning application from information that is publicly available on the Council's website. This showed that there were only 2 other HMO's within a 100m radius of the appeal property. Therefore, the appellant is frustrated that 'the information held on the Council's own publicly available website is in fact inaccurate and not up to date showing far fewer HMOs within the 100m radius than there actually is'. The appellant has provided a number of examples where the HMO's shown by the Council have not been found on the publicly available register that they were encouraged to use prior to submitting a planning application. Consequently, alongside the allegation that this information wasn't shared with the appellant at an earlier stage, the appellant considers that they have been disadvantaged by the fact that the publicly available website does not show all active HMOs.

11. I acknowledge that this would have caused the appellant some frustration, particularly given that the SPD refers to the Council's HMO Public Register website. However, how the HMO data is published and updated is unfortunately outside the remit of the appeal and would not affect my conclusions on the main issues. In addition, I also note that the SPD mentions that the Council's Development Management Team offer an HMO eligibility test pre-application service, which doesn't appear to have been carried out prior to the submission of the appeal planning application.
12. Therefore, for the reasons set out above, the proposal would be contrary to criteria i, ii and vii of Policy H2 of the Placemaking Plan and LPPU, and criterion 2 of the HMO SPD, which together seek to create mixed and balanced communities. They also support the refusal of proposals for an HMO where it would be incompatible with the character and amenity of established adjacent uses and where the HMO use results in the unacceptable loss of accommodation in a locality, in terms of mix, size and type.

Character and Appearance

13. The proposal relates to 32 The Oval, a semi-detached property situated on a prominent corner plot at the junction with Chestnut Grove and Ash Grove. The local context of the area is characterised by traditional semi-detached hipped roof pairs of properties, with a central chimney stack, and a relatively consistent roofscape.
14. The appellant has drawn my attention to 'incremental changes and additions' to the properties of The Oval, which as they set out 'range from replacement window/doors to 2no. storey side extensions'. They continue and state that there is also 'a variety of window and door styles and while the street pattern may survive..... the plot layout has been eroded with on-plot parking resulting in the loss of front gardens and front boundary treatment'. I acknowledge that these changes and additions, including the existing side dormer at 23 The Oval and the 2 storey side extension and rear dormer at 28 The Oval, have added some variety to The Oval. However, despite these changes and alterations, the consistency in the design and form of the roofscape remains to be one of the more prevailing regularities in the area, which including that of the appeal property, contributes positively to the area's character and appearance.
15. For clarity purposes, the Council have not raised any objection to the single storey rear extension or to the rear dormer proposed as part of the development. After consideration of these matters, I see no reason to come to a different conclusion. Therefore, the following assessment focuses on the proposed side dormer.
16. The proposed side dormer, by virtue of its siting on a prominent side roof slope on a conspicuous corner plot, would sit uncomfortably with the more traditional hipped roof form and ridgeline of the existing building. It would result in a distinctive and harmful change to the outline of the hipped roof dwelling, especially when viewed from the front, and would fail to complement the host building. The introduction of a side dormer on No 32 would disrupt the regular roofscape and appear out of keeping with the local context, to the detriment to the character and appearance of the area.
17. The design and scale of the proposed side dormer are noted, including the matching materials, it being set down from the main roof ridge and hip ridges, a

gable roof form to mirror the pitch of the existing main roof, and that it would be set back in from the side elevation and raised above the existing eaves level. Nevertheless, these design principles would not overcome the unsuitable siting of the dormer as identified above.

18. The appellant argues that the greatest impact on the profile of No 32 would arguably be the rear dormer. However, whilst the proposed rear dormer would be glimpsed from Ash Grove to the east, it would have a less significant visual impact. Its siting would not be as prominent as the side dormer would be, nor would the rear dormer alter the outline of the hipped roof form in the same way that the proposed side dormer window would.
19. I note that the proposal is situated outside of any Conservation Area (CA) and that The Oval, or its architectural interest, is not covered by any direct statutory protection. However, the lack of any CA designations or statutory protection does not outweigh the unsuitable nature of the proposal identified above.
20. Therefore, for the reasons set out above, the proposal, notably the side dormer, would harm the character and appearance of the area. It would be contrary to Policies D1, D2 and D5 of the Placemaking Plan and LPPU. These policies, in combination, seek to ensure that development is respectful to local character and distinctiveness, responding positively to the site context, including roofscapes, and complementing the host building. The proposal would also conflict with the principles within Chapter 12 of the Framework which seek good design sympathetic to the local area.

Other Matters

21. The site is within the City of Bath World Heritage Site (WHS) which is a designated heritage asset of the highest significance. The Council has not alleged any harm to the WHS, and I have no reason to come to a different conclusion on this matter.

Conclusion

22. For the reasons given above, the proposal would be contrary to the development plan as a whole, and there are no material considerations, which indicate that I should take a decision otherwise than in accordance with the development plan. Therefore, I conclude that the appeal is dismissed.

Laura Cuthbert

INSPECTOR