



Appeal Decision

Site visit made on 3 December 2024

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Appeal Ref: APP/J0405/W/24/3347427

36 Chandos Road, Buckingham, Buckinghamshire MK18 1AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Olafemi Olatunde of Pavilion Point Limited against the decision of Buckinghamshire Council.
 - The application Ref is 24/01365/VRC.
 - The application sought planning permission for conversion of 4-bedroom house into 7 HMO units with shared facilities without complying with a condition attached to planning permission Ref 23/01938/APP, dated 13 October 2023.
 - The condition in dispute is No 4 which states that: No kitchen facilities including kitchen units, kitchen sink or cooking hobs shall be installed at any time within any of the 7 bedrooms hereby permitted.
 - The reason given for the condition is: To ensure the property is used as a House in Multiple Occupation and not self-contained units leading to amenity and parking issues in accordance with Policies BE3 and T6 of the Vale of Aylesbury Local Plan (Adopted September 2021), the provisions of the NPPF.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. It was apparent during the site visit that cooking facilities had already been installed within the bedrooms. However, I have not been informed if these were installed before the application was submitted and the submitted plans do not show the cooking facilities that have been installed. As such I have determined the appeal based on the submitted plans and evidence before me.
3. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.

Background and Main Issue

4. The reasons given for condition 4 relate to the living conditions of the occupiers of the property as well as ensuring appropriate parking is provided for the use of the building. The Council identified issues concerning the effect the proposal would have upon the living conditions of the occupiers but determined that this would not harm highway safety insofar as it related to parking issues.

5. As a result, the main issue relevant to this appeal is whether condition 4 is necessary having regard to the living conditions of the occupiers of the property with regard to internal living space.

Reasons

6. The appeal building has been converted into a 7-bedroom House in Multiple Occupation (HMO) and is located in a predominantly residential area. The property has a large garden to the rear and a driveway to the front of it and it takes direct access from Chandos Road.
7. The reason given for condition 4 was to ensure the property is used as a House in Multiple Occupation and not self-contained units leading to amenity and parking issues in accordance with Policies BE3 and T6 of the Vale of Aylesbury Local Plan (Adopted September 2021) (LP), the provisions of the NPPF.
8. Policy BE3 of the LP states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of existing residents and would not achieve a satisfactory level of amenity for future residents. Where planning permission is granted, the Council will use conditions or planning obligations to ensure that any potential adverse impacts on neighbours are eliminated or appropriately controlled.
9. Policy T6 of the LP identifies that all development must provide an appropriate level of car parking, in accordance with the standards set out in Appendix B. If a particular type of development is not covered by the standards set out in Appendix B then a number of criteria shall be taken into account.
10. The appellant states that they seek to vary condition 4 to allow kitchenettes to be installed in each living accommodation. The Council's concern was that to do so would result in the rooms becoming self-contained units and thus a dwellinghouse.
11. In *Gravesham BC V SSE & O'Brien* [1983] JPL 306 it was accepted that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence.
12. Section 254 of the Housing Act 2004 (the Act) sets out the meaning of "House in Multiple Occupation" and this includes the "standard test". Part a) of paragraph 2 of this test states that the building or part of a building meets this standard test if it consists of one or more units of living accommodation not consisting of a self-contained flat or flats. Part f) of paragraph 2 states that a building meets the "standard test" if two or more of the households who occupy the living accommodation share one or more basic amenity or the living accommodation is lacking one or more basic amenities.
13. Basic amenities are defined in paragraph 8 as meaning, a toilet, personal washing facilities, or cooking facilities. A self-contained flat is defined in paragraph 8 as a separate set of premises (whether or not on the same floor) – which forms part of a building; either the whole or a material part of which lies above or below some other part of the building; and in which all three basic amenities are available for the exclusive use of its occupants.
14. A toilet and personal washing facilities were provided in each living accommodation, except for "Room 07", in accordance with the original planning

permission to convert the building¹. Without cooking facilities, the individual rooms within the HMO do not have the facilities required for day-to-day private domestic existence. The question is whether the kitchenettes that are proposed to be allowed by the proposal, alongside the existing facilities in the rooms, would be sufficient to provide for day-to-day private domestic existence and whether the rooms would still pass the “standard test” in the Act.

15. The appellant states that plug in cookers/hobs would not be sufficient to meet the day-to-day private domestic existence, but the appeal seeks to vary the condition to allow kitchenettes which could be interpreted in many guises. The submitted plans do not show where the kitchenettes would be located nor what they would entail. The proposal would allow for cooking facilities to be provided in each room.
16. The laundry facilities would be shared in a communal space; however, those facilities do not fall within the “basic amenities” defined in paragraph 8 of the Act. Additionally, laundry facilities are not required for day-to-day private domestic existence, and dwellinghouses such as self-contained flats often do not have these facilities.
17. The Council’s Standards for Housing in Multiple Occupation (Standards) identifies what kitchen facilities could be installed in individual rooms within an HMO. If the kitchenettes were installed in accordance with these Standards which includes sinks, cookers with ovens and rings/burners, food and utensil storage, fridge-freezers, food preparation surfaces, electric sockets and refuse disposal facilities this would provide facilities sufficient to meet the occupiers’ day-to-day cooking requirements to prepare a wide range of meals in a typical residential context. The occupiers would still have access to the shared kitchen, however, the cooking facilities that would be allowed by this proposal, alongside the other facilities within the rooms, would mean that the occupants would have the facilities required for day-to-day private domestic existence in their rooms.
18. Whilst the Council’s Standards includes standards for kitchen facilities within individual rooms, for living accommodation to be defined as an HMO by the Act the living accommodation must lack one or more of the basic facilities. In this instance, the installation of kitchenettes would allow for the three basic amenities to be provided within the living accommodation for the exclusive use of the occupants. This would effectively make them self-contained flats and thus would no longer comply with the “standard test” for HMO’s set out in the Act.
19. While those living in “Room 07” would still have to share a bathroom, part f) of paragraph 2 of the Act requires that two or more of the households must share basic amenities for the building to pass the “standard test” and in this instance only one household would share a basic amenity.
20. The Council has identified that each room would not be large enough to comply with the gross internal floor area for a single self-contained dwelling unit as defined in the Nationally Described Space Standards (NDSS) (March 2015). There is no policy requirement that I have been made aware of to the NDSS in the LP and thus no requirement to comply with it. Nevertheless, it is a useful starting point. The NDSS sets out that an independent 1-bed 1-person self-contained dwelling unit should have a minimum gross internal area of 37 square metres. None of the

¹ Application Reference: 23/01938/APP

bedrooms would have a minimum gross internal area that would comply with the NDSS.

21. The proposal would allow for the rooms to be used as self-contained units and if used as such each of the rooms would provide very limited internal space. Much of this space would be given over to the bed and proposed kitchen facilities, amongst other furniture required for day-to-day private domestic existence. If the occupiers only used their own room, for cooking, eating, socialising, working, and cleaning amongst other day-to-day activities the room would not provide sufficient space to undertake these activities without causing harmful disruption to themselves. The variation of condition 4 to permit kitchenettes would allow for the occupiers to live a self-contained life within cramped and substandard sized rooms and this would provide an unsatisfactory living environment for the occupiers. This would unreasonably harm their living conditions.
22. Whilst the Council may have permitted an HMO with kitchenettes within each room², in that instance details of the facilities to be provided were shown on the submitted plans unlike the scheme before me which has not provided clarity on what would be provided. As such, this has led me to come to a different conclusion on this matter.
23. For the reasons given above, condition 4 is necessary in the interests of the living conditions of the occupiers of the property concerning internal living space. Therefore, the proposal would conflict with LP Policy BE3 insofar as it would not achieve a satisfactory level of amenity for future residents. Given that Policy T6 of the LP relates to parking standards it is not relevant to this matter.

Other Matters

24. For the reasons given above, I have determined that the condition is necessary. Therefore, it has not been necessary to consider whether or not if permission was granted with condition 4 varied that this would equate to a change to the description and the nature of the original planning permission and thus outside the scope of what could be considered under the s73 application process.

Conclusion

25. The proposal would conflict with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR

² Application Reference: 23/01175/APP