



Appeal Decision

Site visit made on 23 January 2025

by **B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/Z0116/W/24/3353637

10 Melvin Square and 1 Ilminster Avenue, Bristol BS4 1LZ

- 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 Kevin Patel against the decision of Bristol City Council.
 - The application Ref is 24/00433/F.
 - The development proposed is ground, first and second floor extensions to 10 Melvin Square and first floor side extension to 1 Ilminster Avenue, to create 2no. large HMOs (1no. 10-bed, 1no. 8-bed), with cycle storage and retail storage at ground floor level.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended first and second floor plans have been submitted with the appeal. These amend the layout of these floors, remove the kitchenette areas from the bedrooms, amend the number of bedrooms and introduce communal kitchens. The appeal process should not be used to evolve a scheme and this is a substantial difference and fundamental change to the proposal, including its description. It would ultimately result in a different proposal and as such, in this respect, I will consider the proposal on the basis of the scheme refused by the Council.
3. Notwithstanding this, a revised ground floor plan has also been submitted (532-PLA-110 B) which shows an enlarged cycle store. This is a minor alteration and to consider it would not deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore considered the appeal on the basis of this particular amended plan.
4. The description of development refers to proposal as being for houses in multiple occupation (HMO). Nevertheless, the Council argues that the submitted plans do not show HMO's but rather 18 separate, self-contained units. This is considered below.

Main Issues

5. The main issues in this case are:
 - whether the proposed development would provide acceptable living conditions for future residents in terms of the provision of internal living space;
 - whether the development would encourage future occupiers to use a range of transport modes, with particular regard to the provision of cycle storage facilities; and

- the effect of the proposed loading bay on highway safety.

Reasons

Living conditions

6. The Council's supplementary planning document 'Managing the development of houses in multiple occupation (HMO)' (2020) (SPD) sets out that the definition of a HMO can be found in the Housing Act 2004.
7. It sets out that a building is an HMO under the standard test if the:
 - *occupants share one or more of the basic amenities (defined as a toilet, personal washing facilities and cooking facilities) or the accommodation lacks one or more of these amenities*
 - *the building does not entirely consist of self-contained flats (it may, however, comprise some self-contained units)*
8. Furthermore, the Council set out that a unit of accommodation is defined as self-contained if it is a separate set of premises, and all three basic amenities are available for the exclusive use of its occupants. This is not disputed by the appellant.
9. The individual rooms on both floors include a kitchen, living area, bed, and bathroom for the sole and exclusive use of the occupant. This comprises of all of the identified basic amenities. Therefore, despite the presence of a small communal laundry room, the building comprises entirely of self-contained units, failing to meet the HMO standard test.
10. The rooms would be physically separate and distinct and would function and be accessed independently. There is no clear difference between the proposal and a development of 18 x 1 bed units. As such, the guidance in relation to HMO room sizes set out in appendix B of the Council's SPD, is not determinative in this instance.
11. The proposed units are consequently self-contained one bedroom units rather than comprising HMO accommodation. Policy DM2 of the of the Site Allocations and Development Management Policies (2014) (DM), which concerns sub-division, shared and specialist housing, is also therefore not determinative in this instance.
12. Policies BCS18 and BCS21 of the Bristol Core Strategy Policy (2011) (CS) and DM Policy DM30 do not make specific reference to the Nationally Described Space Standards¹ (NDSS), nonetheless CS Policy BCS18 requires that development should provide sufficient space for everyday activities through meeting 'appropriate space standards'. The supporting text makes reference to standards used by the Homes and Communities Agency. This has been replaced by the NDSS. No other relevant standards are before me.
13. The NDSS requires a minimum of 37sqm for a 1 bed 1 person flat (with a shower room). None of the proposed units come close to meeting this minimum standard. In any event, based on the submitted plans, given the requirement for each occupier to use the limited space provided for all the basic amenities, the units

¹ Technical housing standards – nationally described space standard (March 2015), Department for Communities and Local Government

would not meet the day to day needs of occupiers. The living conditions of occupants would therefore be unsatisfactory.

14. The appellant refers to a recent appeal decision² where the Inspector concluded that the HMO unit sizes were acceptable in terms of living conditions. However, in that case, there was no dispute regarding the HMO designation. I also note that the floorplans show that the kitchen areas are communal. As such, this scheme is not directly comparable to the case before me.
15. Therefore, I conclude that acceptable living conditions for future occupiers in terms of the provision of internal space, would not be provided. The proposal conflicts with CS Policies BCS18 and BCS21 and DM Policy DM30, which collectively require residential development to provide sufficient space for everyday activities and to create a high-quality environment for future occupiers.

Encouraging future occupiers to use a range of transport modes

16. There is a minor shortfall in the gaps between cycle stands and walls, distance between stands and corridor width shown on drawing 532-PLA-110 B, compared to the space standards indicated in the comments from Transport Development Management Officer. However, I am not directed to any policy or guidance specifying these required measurements. In any case, given the limited shortfall indicated, I am satisfied that the proposed layout would provide easy and suitable access and practical storage that would encourage cycling.
17. Whilst the access door may require residents giving way to other users on occasion, this would be a brief inconvenience and not indicative of an inadequately sized accessway. This would not deter cycle use for future occupants.
18. I conclude that the development would encourage future occupiers to use a range of transport modes, with particular regard to the provision of adequate facilities for cycle storage. I therefore find no conflict with CS Policy BCS10 and DM Policy DM23 where they, among other things, require development to provide adequate facilities for cyclists and reduce the need to travel by car by maximising opportunities for cycling.

Highway safety – loading bay

19. The proposed site plan shows tracking diagrams illustrating that vehicles can enter and exit the loading bay in a safe manner without conflict with the highway, including the nearby traffic island. The plans show that the dimensions of the bay, including its length, which is the same as the existing, is big enough to accommodate transit or panel vans without overhanging the footway.
20. There is no substantive or compelling evidence before me that the existing use of this bay leads to issues of highway safety to either road users or pedestrians. Even if the minor additional retail storage provided results in an increase in the frequency of the use of the loading bay, there is nothing to show that this would change or that its use by larger vehicles would be necessary. Melvin Square has a number of commercial premises, including takeaways and other retail stores. As such, the serving of these premises by such vehicles is not uncommon nor unexpected and other road users and pedestrians, including children visiting the school nearby, would anticipate this accordingly.

² Appeal reference APP/Z0116/W/23/3335671

21. As such, I find that the use of the loading bay would not harm highway safety. The proposal would not therefore conflict with the provision of safe streets and safe access goals of CS Policy BCS10 and DM Policy DM23.

Other Matters

22. Whilst not referenced in the reasons for refusal, the officer report raises issue with the lack of a disabled parking bay within the site. As I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.

Planning balance and conclusion

23. There would be moderate temporary economic benefit during construction and once complete, an on-going benefit to the economy through the expansion of the ground floor shop and spend by residents in the local economy and the support to local services, facilities and related employment. The addition of 18 units would make a moderate difference to the overall supply of housing.
24. The Framework seeks to create places with a high standard of amenity for future users, and as such the conflict with CS Policies BCS18 and BCS21 and DM Policy DM30 should be given significant weight in this appeal. Given the conflict identified above, the development would conflict with the development plan as a whole.
25. It is not disputed that the Council is falling significantly short of the required housing land supply, set out by the appellant at 2.24-2.45 years. Therefore, having regard to Framework footnote 8, Framework paragraph 11d) applies.
26. The Framework supports the value of using suitable brownfield land within settlements, and the efficient use of land. The provision of 18 dwellings is a moderate amount, and as such, even if they would be a low cost rental type underrepresented in the area and even given the housing situation in Bristol, this would result in moderate social and economic benefits. Each of these benefits therefore attracts moderate weight. Given the moderate scale of development, a reduced energy use of heating a building compared to individual flats would be a minor benefit, notwithstanding my findings above in relation to the proposed accommodation. It is not clear what garages would be removed from the site, and as such I can only give the visual benefit of this minor weight.
27. The lack of harm identified in relation to matters such as the living conditions of neighbouring occupiers is a neutral matter, not in favour of the proposal.
28. The Framework requires that decisions should ensure that developments create places with a high standard of amenity for future users. Given the importance put on achieving well-designed places in the Framework, I give significant weight to this matter.
29. Consequently, the adverse impacts set out above 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.
30. 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