
Appeal Decision

Site visit made on 19 December 2016

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 January 2017

Appeal Ref: APP/N4720/W/16/3159665

12 Brudenell Mount, Leeds, West Yorkshire LS6 1HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mohammed Anwar against the decision of Leeds City Council.
 - The application Ref 16/00546/FUL, dated 27 January 2016, was refused by notice dated 4 April 2016.
 - The development proposed is described as 'change of use from C3 to C4, 6 bedroom dwelling, HMO'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from dwelling (C3) to HMO (C4) at 12 Brudenell Mount, Leeds, West Yorkshire LS6 1HT in accordance with the terms of the application, Ref 16/00546/FUL, dated 27 January 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan; existing floor layout.
 - 3) No development shall take place before details of cycle/motorcycle parking provision are submitted to and approved in writing by the Local Planning Authority. The approved cycle/motorcycle parking provision shall be implemented in full before the use commences and shall be retained thereafter.
 - 4) No development shall take place before details of measures for the provision of bin stores (including siting, materials and means of enclosure) and storage of wastes and access for their collection are submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the use commences and shall be retained thereafter.

Application for costs

2. An application for costs was made by Mr Mohammed Anwar against Leeds City Council. This application is the subject of a separate Decision.

Procedural matter

3. I have taken the description of development from the Council's decision notice for my decision above as it succinctly describes the proposed development.
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Main Issue

4. The main issues for the appeal are:

- The effect of the proposal on the supply of dwellings suitable for family occupation; and
- The effect of the proposal on the living conditions of the nearby residents with particular reference to noise and disturbance.

Reasons

Background

5. The appeal proposal relates to the change of use of a two storey mid terrace dwelling with attic accommodation, to a House in Multiple Occupation (HMO) falling within Use Class C4. Policy H6 of the Leeds Local Development Framework Core Strategy 2014 (CS) is concerned amongst other things with HMOs. Policy H6A includes criterion (iii) which seeks to control the conversion of single dwellings to HMOs to avoid detrimental impacts through high concentrations of HMOs which would undermine the balance and health of communities. The explanatory text to the policy in paragraph 5.2.24 of the CS includes that in the interpretation of H6A (iii) it is recognised that some streets (or a part of a street) may already have such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm.
6. CS Policy H6A, in criterion (v) seeks to avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs. In paragraph 5.2.24 of the CS, it sets out that it may be the case that the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation and that in such circumstances Policy H6A would not be used to resist changes of use of such dwellings to HMOs.
7. The parties agree that the appeal property is situated within an area with a high concentration of HMOs which already suffers from detrimental impacts associated with such uses. In this regard I have taken into consideration the Council's comments regarding the report 'Evidence Gathering – Housing in Multiple Occupation and possible planning response – Final Report' 2008. The parties disagree however as to the proportion of dwellings in the street which are in multiple occupation. The Council has provided information from Council Tax records that 12 out of 30 dwellings on this part of the street remain in C3 use. This is disputed by the appellant, who has provided evidence that the figure of dwellings occupied as C3 dwellings is substantially lower, which generally accords with what I saw during my site visit. However, whilst I have no evidence regarding the lawfulness of properties occupied as HMOs, I find that the part of street containing Nos 1 to 30 Brudenell Mount, has a character which is predominately one derived from the use of properties as HMOs.

Family housing

8. The appeal dwelling is occupied as a family home and I saw at my site visit is laid out so as to provide adequate family accommodation, and that there is access to local shops, community facilities and parks. Whilst the dwelling does not have a garden or garage and is equipped for HMO use, these factors do not

make the dwelling physically unsuitable for family use and ordinarily I consider that it may appeal as a 'starter home'.

9. However, the appeal property has HMOs adjoining to each side and opposite across the street and is situated on part of the street where HMOs predominate. Given this predominance and having considered the evidence in respect of noise and disturbance experienced by the appellant and his family which is not disputed by the Council and that regarding the detrimental impact of HMOs in the area, I find the appeal property to be unappealing and effectively unsuitable for family occupation.
10. Although the marketing evidence provided by the appellant does not establish that there is no reasonable prospect of the dwelling being sold for further C3 use given the length of time the property has been for sale, it does lend some weight to the argument that the dwelling is unappealing for future private occupiers. Whilst I have considered the comments by the Council regarding demand for family housing in the area, the evidence before me in this regard is however limited.
11. I have considered carefully the evidence regarding the health of the appellant's daughter. In particular, I note the view of the Community Mental Health Team concerning the negative impact the local conditions have on her condition and how moving away could vastly improve her quality of life. This weighs in favour of the scheme.
12. On the balance of evidence before me, I have not been convinced that the proposal, through the loss of a family home, would conflict with paragraph 50 of the National Planning Policy Framework (the Framework) which seeks to create sustainable, inclusive and mixed communities given the present balance of HMOs and private dwellings in the street. To conclude on this matter, whilst the proposal would give rise to the loss of a dwelling which is physically capable of being occupied as a family home, I find the dwelling to be unappealing for family use and effectively unsuitable for family occupation given the predominance of HMOs nearby and the noise and disturbance which takes place. Consequently, in these particular circumstances, I consider that CS Policy H6A should not be used to resist the proposed change of use of the dwelling to a HMO.

Living conditions

13. It is clear from the evidence before me that the wider area around the appeal site experiences general noise and disturbance associated with the high concentration of HMOs, anti-social behaviour and a relatively high incidence of crime. I have taken into consideration also the Council's comments regarding the effects of the change in character in the area on the physical environment and streetscape in recent years. Additionally, I have considered the concern of the Council that there are many parts of the Hyde Park area where similar levels of HMO occupation takes place and an exception in this case could undermine the wider policy objective of CS Policy H6. This is a legitimate concern as whilst there is a high proportion of HMOs, from the evidence before me, there also remains a minority of properties in C3 use on the street.
14. CS Policy H6A and the explanatory text do not set a threshold as to what constitutes such a high concentration of HMOs that the conversion of the remaining C3 dwellings would not cause further detrimental harm and

undermine the balance and health of communities. This is therefore a matter of judgement. The appeal proposal would result in an intensification of use of the property and is therefore likely to result in some increase in noise and disturbance and comings and goings. Given the particular circumstances in this case however, with the predominance of HMO uses in the area and immediate vicinity of the appeal property, including to either side of the appeal property and opposite and the existing conditions, I do not consider that the appeal proposal would cause further unacceptable harm in this regard either by itself or cumulatively.

15. The proposed change of use would not therefore give rise to unacceptable harm to the living conditions of nearby residents and therefore does not conflict with CS Policy H6 in this regard. Additionally, I do not consider the proposal to be contrary to saved Policy GP5 of the Leeds Unitary Development Plan 2006 (UDP) which includes that development proposals should seek to avoid problems of loss of amenity nor conflicts with the Framework which in paragraph 17 includes that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings. I find no significant conflict with the Councils Neighbourhoods for Living Guide for Residential Design in Leeds 2003 document.

Other matters

16. The Council has cited a number of appeal decisions in relation to proposals for HMOs which I have had regard to in reaching my decision¹. I do not know however what information was before the Inspectors and cannot determine whether the appeals cited are directly comparable with the proposal before me. I note however that the circumstances in respect of the appeal relating to 29 Brudenell Avenue are different to that before me in that No 29 had a family house to one side. In respect of the appeals relating to 14 Brudenell Street, 3 Spring Road and 16 Glossop Street, it would appear that the proportion of HMOs was considerably lower on those streets than in the appeal before me. I note that the appeal in relation to 11 Quarry Mount Place predates the CS.

Conditions

17. I have reviewed the conditions suggested by the Council against the Framework and PPG and have revised some of those suggested in the interests of clarity and to accord with national policy and guidance. I have attached conditions in regards of timescale and specifying the plans as that provides certainty. I have attached conditions in respect of motorcycle/cycle parking in the interests of highway safety and in respect of bin storage in respect of the character and appearance of the area.

Conclusion

18. For the reasons given above and having considered all matters raised, I conclude that the appeal should succeed.

Philip Lewis

INSPECTOR

¹ PINS Refs: APP/N4720/W/15/3134668, APP/N4720/A/13/2195802, APP/N4720/A/12/2177820, APP/N4720/A/13/2200585, APP/N4720/W/16/3143702, APP/N4720/W/16/3145215