
Appeal Decision

Site visit made on 21 February 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 24th March 2017

Appeal Ref: APP/C2741/W/16/3165087
52 Heslington Road, York, YO10 5AU

- 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 Mrs Christine Gray against the decision of City of York Council.
 - The application Ref: 16/01740/FUL, dated 21 July 2016, was refused by notice dated 12 October 2016.
 - The development proposed is a change of use from residential (Use Class C3) to a house in multiple occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character of the area with particular regard to the mix and tenure of housing.

Reasons

3. Policy H8 of the City of York Draft Local Plan 2005 (the Draft Local Plan) addresses the conversion of buildings and sets out a number of criteria against which applications for conversions of existing buildings will be assessed. Amongst these is a requirement that the development should not create an adverse impact on the living conditions of the occupiers of neighbouring residential properties particularly through noise disturbance, or the residential character of the area, either as a result of the conversion alone or cumulatively with a concentration of such uses.
 4. The appeal building is within the area covered by an Article 4 Direction removing the permitted development rights in respect of the change of use from a dwelling house to a house in multiple occupation (HMO), which took effect on 20 April 2012.
 5. Following the Article 4 Direction coming into effect, the Council has also produced a Draft Supplementary Planning Document: Controlling the Concentration of Houses in Multiple Occupation (SPD), which was approved in 2012 and updated in 2014, that sets out more detailed criteria against which applications for houses in multiple occupation will be assessed.
 6. Although the Draft Local Plan has not been formally adopted, the Council have resolved to approve both it and the Draft SPD for development management
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purposes and, therefore, weight can be given these dependent on their consistency with the National Planning Policy Framework (the Framework). Paragraph 50 of the Framework advises that Local Planning Authorities should aim to create sustainable, inclusive and mixed communities and identify the size, type, tenure and range of housing that is required, reflecting local demand. The policy approach in the Draft Local Plan and the SPD seek to achieve this and, therefore, moderate weight can be given to these policies.

7. The appeal building is a large, mid terraced, two storey house with additional rooms within the roof space. It contains six bedrooms on the first and attic floors and the ground floor contains two reception rooms, a kitchen and bathroom. Externally there is a small yard area with a garage and a further outbuilding. It is located in a primarily residential area with a small number of commercial uses present and is a short distance from the city centre.
8. The proposed development would meet the requirements of Policy H8 of the Draft Local Plan in terms of the size of the property, internal layout, and no external alterations would be required. Policy H8 also seeks to prevent the concentration of HMOs where this will have an adverse impact on the residential environment. In order to achieve a balanced community and maintain an appropriate range of housing, the SPD establishes thresholds for the percentages of HMOs of 20% at neighbourhood level and 10% at street level. The Council state that within the relevant neighbourhood, the current percentage of HMOs is 23% and at street level, within 100m of the appeal building, the proportion of shared houses is 34.95%. These figures are not disputed by the appellant and evidence produced by the appellant shows that within the vicinity of the appeal building there are a significant number of shared student houses or registered HMOs. This is consistent with what I saw when I visited the site.
9. Although at neighbourhood level the proportion of HMOs only slightly exceeds the threshold in the SPD, at street level, it significantly exceeds the 10% threshold. The appeal proposal would therefore be contrary to the SPD and is located in an area where it could be considered that there is an imbalance in the type of housing available, particularly within Heslington Road itself which has a notably high concentration of HMOs and shared houses.
10. The SPD identifies that large concentrations of HMOs can result in changes in the nature of street activity, street character, standards of property maintenance and repair, increased parking pressures, littering and accumulation of rubbish. I saw when I visited the site that there was a noticeable difference in appearance between properties that were in use as single dwellings and those obviously in use as HMOs or advertised as student accommodation.
11. The SPD recognises that HMOs make an important contribution to housing in the city, however, it also recognises that concentrations of HMOs can result in the loss of family housing and starter homes. The appeal building is a large terraced house in a row of similar properties and, although it would be too large to constitute a typical starter home, there is no substantive evidence from either party in respect of the need or requirement for either HMO accommodation or for single dwelling houses of this size. There is also no evidence that the appeal building has been unsuccessfully marketed as a single dwelling. Within this context, the proposal would result in the loss of a family

house in the area, and would add to the imbalance in the community and housing stock that already exists. It is suggested that the proposal would result in six dwellings being returned to the housing market, however, there is no substantive evidence in respect of household formation or trends in downsizing that would support this.

12. I note that there have been two HMOs in the near vicinity allowed at appeal in the recent past. I do not have full details of these cases and therefore cannot be certain if the circumstances are the same as the present appeal case. Although it may have been found in these cases that the proposals would not harm the character of the area, the capacity of any area to absorb change is not limitless. The addition of another HMO to the present number of HMOs and shared houses, would further erode the traditional residential character of the area and further skew the nature of the demographic of the residents.
13. Whilst I am mindful that the appellant has suggested that the proposed HMO would be aimed at working or older tenants, the SPD applies to all HMOs and does not differentiate between student housing and other types of resident. There is no mechanism proposed which would restrict the occupancy of the property to particular types of tenants and it is difficult to see how a restriction on occupation could be practically enforced in the longer term as it would be very hard to detect if a breach of the restriction had occurred.
14. I have had regard to the appellant's point that houses that accommodate students are not always HMOs. Nevertheless if at least three tenants live there, forming more than one household, and toilet, bathroom or kitchen facilities are shared by the tenants, the property meets the definition of being an HMO even though the licencing or registration of small HMOs is not mandatory.
15. I have also had regard to the points regarding maintenance of gardens and management of rubbish at private houses, although neither of these points leads me to a different conclusion.
16. There is no substantive evidence that local businesses would be at risk if the proposal were to go ahead and I note that, whilst at the time of my site visit the available on street car parking was very heavily used, the Council have not raised car parking as an issue.
17. Whilst the supporting text to Policy H8 and the SPD identify that HMOs can lead to problems of noise and disturbance arising from increased movements to and from the property and from noise transference between buildings, there is no evidence that there are current concerns or complaints in respect of noise and disturbance from the existing shared houses and HMOs in the vicinity of the appeal building.
18. Heslington Road is a busy road with a bus route, and at the time of my site the background noise levels were relatively high, mainly due to traffic movements. Given the nature of the road it is likely that it will also carry noticeable amounts of traffic at other times. In addition, there are currently a substantial number of shared houses in the vicinity which will also generate pedestrian movements. Within this context, I do not consider that additional movements associated with the appeal proposal would result in a significant change to the pre-existing situation.

19. Although the proposed development would meet some of the requirements of Policy H8 and the SPD, as set out above, it would further increase the concentration of HMOs in a street where there are currently a significant proportion of HMOs and shared houses, which would further contribute to unbalancing the community in the area and this would have an adverse effect on its character. Although the Policy H8 and the SPD are still draft policies, it is a requirement of the Framework to create sustainable, inclusive and mixed communities. In my view this is an important matter, to the extent that the proposal should be regarded as being in conflict with Policy H8 and the SPD when taken as a whole. It would also be inconsistent with the requirements of the Framework.
20. I therefore conclude that the proposed development would cause harm to the character of the area, with particular regard to the mix and tenure of housing. It would be contrary to Policy H8 of the Draft Local Plan and the SPD which seek to ensure that proposals for conversions of dwelling to HMOs do not have an adverse impact on the living conditions of the occupiers of neighbouring residential properties particularly through noise disturbance, or the residential character of the area.

Other matters

21. I have noted that the property was formerly used as small nursing home. This use has since ceased and this former use is not directly comparable to use as HMO. Although there is potentially a small social benefit in communal living, this would, nonetheless, further alter the characteristics of the population of the area and not contribute towards creating a sustainable, inclusive and mixed community in an area where the Council consider that the population is already unbalanced.

Conclusion

22. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR