The Planning Inspectorate

# Appeal Decision

Site visit made on 2 May 2017

**by Graeme Robbie BA(Hons) BPl MRTPI**

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

**Decision date: 19 May 2017**

**Appeal Ref: APP/N4720/W/16/3165773**
**141 Brudenell Road, Hyde Park, Leeds LS6 1LS**

- 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 Garvey against the decision of Leeds City Council.
- The application Ref 16/05594/FU, dated 7 September 2016, was refused by notice dated 1 November 2016.
- The development proposed is internal alterations and increase of size of lightwell to rear with new doors to rear elevation. Change of use from existing 6 bed C4 HMO to 8 bed Sui Generis HMO.

## Decision

1. The appeal is allowed and planning permission is granted for internal alterations and increase of size of lightwell to rear with new doors to rear elevation. Change of use from existing 6 bed C4 HMO to 8 bed Sui Generis HMO at 141 Brudenell Road, Hyde Park, Leeds LS6 1LS in accordance with the terms of the application, Ref 16/05594/FU, dated 7 September 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: 2274 010; 2274 011; 2274 001 and 2274 002.

## Procedural Matters

2. The application was submitted with the description of development set out above. However, it seems to me that the Council's decision, encapsulated in the development description set out on the Decision Notice, was based on the proposal being for a 'change of use of a house to form a house in multiple occupation (sui generis) and lightwell alterations'. The application was subsequently refused for two reasons.

3. However that was not what the appellant sought permission for and the Council, post-decision, acknowledged that there were a number of errors in both their delegated Officer report and in the published reasons for refusal. They therefore sought to revise and amend the content and wording of both with the submission of their Statement of Case. I have given the appellant the opportunity to consider the nature and extent of these revisions at the Final Comments stage. I have therefore considered the appeal on the basis of the proposal for which permission was sought and I am satisfied that the interests

of all parties to the appeal would not be prejudiced were I to do so. The appeal therefore proceeds on this basis.

## Application for costs

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

## Main Issues

5. The main issues in the consideration of this appeal are:

   - Whether or not the proposed development would contribute to a wider housing imbalance in the area; and
   - The effects of the proposed development on the living conditions of local residents, with particular regard to noise, disturbance and the comings and goings of occupants.

## Reasons

*Housing Balance*

6. The appeal property is a substantial semi-detached property located within a row of similar properties on Brudenell Road within the Hyde Park area of Leeds. On the opposite side of Brudenell Road lie more modest two storey semi-detached properties. The area is predominantly residential.

7. I am advised that the property has been occupied and licensed as an HMO for a number of years. With the internal and limited external alterations proposed the proposal seeks to increase the occupancy of the appeal property from a 6-bed HMO (falling within Use Class C4) to an 8-bed HMO (a sui generis use). An Article 4 Direction came into force in 2012 in the area to enable the Council to have greater control over the conversion of dwellings to shared dwellings and HMOs. Policy H6(A) of the Leeds Local Development Framework: Core Strategy (CS) sets out the Council's approach to determining proposals for new Houses in Multiple Occupation (HMOs) within the area covered by the Article 4 Direction.

8. The Council consider that the proposal would be in conflict with criteria (iii) and (v) of CS policy H6(A). These seek to ensure that (iii) detrimental impacts through high concentration of HMOs which would undermine the balance and health of communities are avoided, and (v) to avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs. The National Planning Policy Framework (the Framework) seeks to promote sustainable, inclusive and mixed communities[1] and, as one of its core planning principles, seeks to ensure a high standard of amenity for existing and future occupiers of land and buildings. I therefore consider the provisions of CS policy H6(A) to be broadly consistent with the Framework in this respect.

9. The supporting text[2] to CS policy H6(A) recognises that some streets (or parts of a street) may already have such a high concentration of HMOs that the conversion of remaining C3 dwellings would not cause further detrimental harm. It also recognises that in circumstances of a high concentration of HMOs

[1] Paragraph 50
[2] Paragraph 5.2.24

that it may be the case that remaining C3 dwellings would be unappealing and effectively unsuitable for family accommodation as a consequence. In such circumstances, it is stated, CS policy H6(A) should not be used to resist changes of use to such dwellings to HMOs.

10. The Council acknowledge that although the proposal would not introduce a new HMO to the area it would result in an increase in bed spaces within an existing HMO. That increase, the Council aver, would in turn further contribute to housing imbalance in the area. However, although the appeal property is a large dwelling and could be capable of providing family accommodation, it is not disputed that it has been occupied for a number years as a 6-bed HMO (and licensed by the Council as such).

11. The appeal site is described as falling within an area considered to have a high concentration of HMOs, but I have not been referred to any particular threshold levels over and above which the proportion of HMOs are considered to be excessive. Indeed, the Council acknowledge that they do not have an evidence base sufficient to identify every HMO in the city and instead rely on a variety of sources to identify the tenure and occupation of properties and generalised statements to quantify the level of HMOs with a reliance upon subjective assessments as to whether that level in a particular area or street is too high.

12. However, I note the acknowledgement in the Council's delegated Officer report that they consider the concentration of HMOs in the locality of the appeal site to be insufficient to make remaining C3 dwellings unsuitable for family occupation. As it is agreed that the appeal property is already occupied as a 6-bed HMO and that the proposal would not result in the loss of a dwelling capable of family occupation or the creation of a new HMO, I have no compelling evidence before me that would lead me to conclude that the proposal would contribute to a housing imbalance.

13. Thus, for the reasons set out, I find that the proposal would not result in the creation of a new HMO or the loss of family accommodation. As the property has been occupied for a considerable length of time as a 6-bed HMO I also conclude that the proposal cannot materially alter the concentration of HMOs in this immediate group[3], or on Brudenell Road as a whole. CS policy H6(A) is quite clear that it should only apply to development proposals for new HMOs within the area covered by the Article 4 Direction. As the proposal seeks to create two additional bedrooms within an existing HMO rather than a new HMO, I find that there would be no conflict with the provisions of CS policy H6(A) (iii) or (v), or the Framework.

*Living Conditions*

14. The area in which the appeal site is located is a densely populated urban residential area and on a busy road. Although the Council identify the Hyde Park area as one of the most impacted areas of the city in terms of HMO concentration, I have not been presented with any compelling evidence to indicate that the appeal site and its environs are particularly representative of issues identified on a wider Ward-based analysis. Generalised references regarding the impacts of high concentrations of HMOs in terms of crime, anti-social behaviour and noise have been submitted, but the appellant's extract of

[3] 129 to 157 (odd) Brudenell Road

crime figures for the appeal site's postcode area provides a more site specific assessment of reported crime with lower incidences of the types of behaviour referred to in the more generalised, ward-based figures submitted by the Council.

15. It may be that 6 person occupancy of the appeal property is a maximum and that it is not occupied at maximum occupancy. However, no evidence has been put forward to suggest that that is the case. In any event, I do not consider that the additional comings and goings associated with occupancy of the two additional bedrooms proposed in this instance within an existing 6-bed HMO would be significantly noticeable or so materially significant as to be harmful to the living conditions or general amenities of adjacent residents or local residents more widely.

16. I have noted the Inspector's conclusions[4] in respect of a proposal to create two 8-bed HMOs and the implications of a 33% increase in occupancy in that instance. My attention has also been drawn to extracts from other decisions relating to HMOs where alternative conclusions were reached[5]. However, I have not been provided with the full details of those cases and cannot therefore be certain that they could be considered to be directly comparable to the current proposal. I have in any event considered the current proposal on its own merits and on the basis of the available evidence.

17. For the reasons set out therefore, I conclude that the proposal would not result in an unacceptable intensification of the existing use of the site, nor has it been demonstrated that the proposal would result in a significant reduction in amenity to local residents through, noise, disturbance and comings and goings. As such, the proposal would not be in conflict with CS policy H6(A) or saved policy GP5 of the Revised Leeds Unitary Development Plan (RUDP) which states that proposals should avoid such problems as loss of amenity.

**Conditions**

18. I have considered the need for conditions in the light of the advice in the Planning Practice Guidance and the conditions put forward by the Council. In addition to a time limit condition, I agree that in order to provide certainty it is necessary to require that the development is carried out in full accordance with the approved drawings.

19. The Council have not addressed the justification or need for the suggested condition relating to cycle storage and so I have not imposed a condition to this end. Nor have I imposed a condition relating to refuse storage, as referred to by the Council in their delegated officer report but not subsequently, as I am satisfied that the proposed plans show satisfactory provision.

**Conclusion**

20. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

*Graeme Robbie*

INSPECTOR

[4] APP/N4720/W/16/3143702
[5] APP/N4720/A/11/2162849, APP/N4720/A/12/2187224, APP/N4720/W/15/3134990 & APP/N4720/W/16/3156211