
Appeal Decision

Site visit made on 26 October 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 16th November 2017

Appeal Ref: APP/N4720/W/17/3180721

20 Headingley Avenue, Headingley, Leeds LS6 3EP

- 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 Ms Clair Holt against the decision of Leeds City Council.
 - The application Ref 17/01685/FU, dated 14 March 2017, was refused by notice dated 9 May 2017.
 - The development proposed is change of use of C3 dwelling to C4.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has made a direction under Article 4 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995 in relation to the appeal site location requiring planning permission for the conversion of dwellings into houses in multiple occupation.

Main Issues

3. The main issues are effect of the proposed development on:
 - the housing mix and community balance and the cumulative effect of a high concentration of HMOs in the area; and
 - the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance, and crime and disorder.

Reasons

Housing Mix and Community Balance

4. The appeal site is a two-storey mid-terrace dwelling with three bedrooms and modest front and rear yards located on Headingley Avenue in the Headingley area of Leeds. The appeal property is a single dwelling in the C3 Use Class as defined by the Town and Country Planning (Use Classes) Order 1987. The proposed development is a change of use to a house in multiple occupation (HMO) under Use Class C4 of that Order.
5. The area around the appeal site is popular with students living in HMOs but also provides housing for longer term residents. Leeds has a large student population and much of it is concentrated in Headingley, which appears to be

convenient for many of the city's university facilities. On the evidence before me I consider it likely that any increase in the provision of HMOs is likely to attract students rather than any more settled occupiers.

6. The Council has provided evidence from council tax records that the area surrounding the appeal property has a very high concentration of HMOs. The appellant states that the proposed development should be considered as a *de minimis* addition to the number of HMOs because it relates only to one dwelling. While a single dwelling is a small proportion of the entire housing stock, I consider that a *de minimis* approach would be inappropriate because it requires the cumulative impact consideration of policy to be ignored.
7. In any event, paragraph 5.2.24 the Leeds Local Development Framework Core Strategy 2014 (the Core Strategy) provides for an exception test to policy restricting the growth of HMOs.
8. The exception applies where the existing concentration of HMOs is already so high in a street or part of a street that the conversion of the remaining single dwellings would not cause further detrimental harm. An exception would also apply where the remaining single dwellings would be unappealing, and thus effectively unsuitable, for family occupation.
9. The appellant states that there are no families in occupation in the area around the appeal site. However, I consider 'families' to be capable of broad interpretation and not just people with children. Moreover, the issue for determination is whether the appeal property is suitable for use by families, not whether it and neighbouring properties are currently put to such use.
10. The appellant refers to the draft Headingley Neighbourhood Plan which suggests a threshold of 80 percent of dwellings being HMOs as a cut-off point after which the exception test should be applied. The appellant states that the area around the appeal site is at 'almost 100 percent student or transient occupancy'.
11. The draft Headingley Neighbourhood Plan is not adopted policy and therefore I give it limited weight. However, the Council has undertaken a survey on Headingley Avenue and concluded that approximately 77 percent of properties were HMOs and the remaining 23 percent were single dwellings in Use Class C3.
12. The block plan submitted as part of the appellant's evidence shows a large number of HMOs in Headingley Avenue. However, while the plan includes some properties in Headingley Mount to the east, it excludes other properties in that street, in Headingley Avenue and the whole of Estcourt Avenue to the west.
13. I consider that the evidence before me demonstrates that the suggested cut-off point in the draft Headingley Neighbourhood Plan has not been met and does not support the appellant's estimate. I therefore give very little weight to this argument and find no reason to depart from Core Strategy Policy.
14. Retail and community facilities such as health centres are needed to provide a sufficient level of service for the local population. Because demand for facilities would vary considerably between term-time and holidays I consider that a large transient and often absent student population would have a detrimental effect on proper planning for the provision of these facilities.

15. The conversion of this property to an HMO would inevitably lead to the loss of a three-bedroom dwelling suitable for families in an area that already has a high number of HMOs. A further increase in the transient population at the expense of long-term residents would cause uncertainty in the availability of services and would have a detrimental cumulative effect on the provision of community facilities.
16. Therefore, I conclude that the proposed development would have an unacceptable impact on the available housing mix and community balance, and would be contrary to Policies H6 and P10 of the Core Strategy, which seek to ensure that there is a range of housing available to suit the needs of the City and promote community cohesion.

Living Conditions

17. The appellant has provided crime statistics for the properties in the same postcode as the appeal site from 2013 to suggest that crime is not significantly higher than other areas.
18. The Council has provided evidence that deals with issues of nuisance and covers more recent years. I consider that noise and nuisance, which might be persistent, are of greater concern to the majority of residents of an area than a small number of criminal acts that might not directly affect them.
19. The Council's evidence demonstrates a high correlation between the concentration of the student population and recorded complaints of anti-social behaviour and noise nuisance. The Council also shows that members of the student population are responsible for a high proportion of the nuisance as evidenced by the service of abatement notices under the Environmental Protection Act 1990.
20. An HMO is likely to be occupied by unrelated adults which would lead to a more intensive use of the property by adults living separately than by a family living as a unit. The consequential increase in intensity of use would be reflected in a significant increase in comings and goings with a corresponding increase in disturbance and noise.
21. The proposed development would therefore detrimentally affect the living conditions of the occupants of neighbouring properties contrary to Policy H6 of the Core Strategy and Policy GP5 of the Leeds Unitary Development Plan 2006, which amongst other things seek to ensure that developments do not result in unacceptable harm to the living conditions of the occupiers of neighbouring properties.

Other Matters

22. I have been referred to a significant number of previous appeal decisions relating to HMOs¹. A number of the appeals relate to alterations to existing HMOs and are therefore not directly applicable to the circumstances in this case. Others appear to reflect similar circumstances to the scheme subject to this appeal. The appeals also vary in their outcome, with some appeals allowed and others dismissed. Therefore, while I have taken each into

¹ APP/N4720/A/11/2162849; APP/N4720/A/12/2177820; APP/N4720/A/12/2187224; APP/N4720/A/13/2195802; APP/N4720/W/15/3035750; APP/N4720/W/15/3134668; APP/N4720/W/15/3134990; APP/N4720/W/16/3132591; APP/N4720/W/16/3143702; APP/N4720/W/16/3145215; APP/N4720/W/16/3156211; APP/N4720/W/17/3169668.

consideration and I give them significant weight, I have determined this appeal on its own merits.

Conclusion

23. For the reasons given above, and taking into account all other matters, I therefore conclude that the appeal should be dismissed.

D Guiver

INSPECTOR