
Appeal Decision

Site visit made on 28 December 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 25 January 2018

Appeal Ref: APP/N4720/W/17/3180701

54 Longroyd Grove, Beeston, Leeds LS11 5HQ

- 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 Michael Chamberlain against the decision of Leeds City Council.
 - The application Ref 17/02702/FU, dated 25 April 2017, was refused by notice dated 22 June 2017.
 - The development proposed is the change of use from dwellinghouse (C3 Use) to 5 Bedroom HMO (C4 Use).
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issue

3. The main issues are:
 - Whether the proposal would provide adequate living conditions for future occupiers of the property having particular regard to accommodation and amenity space.
 - Whether the proposal would result in the loss of a dwelling that is suitable for family accommodation to the extent that this would represent an over concentration of Houses in Multiple Occupation (HMO's) in the area and cause an imbalance in housing provision.
 - The effect of the proposal on the living conditions of the occupants of nearby dwellings with particular regard to noise and disturbance.

Reasons

Living conditions - future occupiers

4. The appeal site comprises an end terraced property having accommodation space over two floors and within the roof space, and has a small enclosed rear yard that is partly used for bin storage. It lies within a high density housing area characterised by closely spaced rows of terraced streets.

5. The proposal would provide for the change of use of the existing dwelling to a house in multiple occupation (HMO). This would comprise of one bedroom on the ground floor which the Council indicates would have a floor area of approximately 14.3sqm, two bedrooms on the first floor with floor areas of approximately 7.9sqm and 9.9sqm and two bedrooms in the roof space having floor areas of approximately 9.2sqm and 12sqm. Two shared bathrooms and a communal kitchen would also be provided. I have no other evidence to suggest that the Council's calculation of floor areas may be incorrect.
6. The appellant indicates that the proposal complies with the Council's Advisory Standards (the Standards) for 'Category B' HMOs and that the Standards do not provide for any minimum bedroom sizes. Although the Standards have been produced by the Council to assist landlords and others to design, improve and maintain to a reasonable standard, they do not form part of the Development Plan nor are they adopted by the Council as supplementary planning guidance. Moreover neither party has submitted the Standards as part of this appeal. Therefore, the weight I attach to the aspects of the Standards brought to my attention is limited.
7. The shared kitchen area would have a floor area of approximately 13.3sqm and I agree with the Council that this would feel quite busy and compact when individuals may wish to cook. Moreover, owing to its limited floor area, I do not consider that this space would be sufficient to provide for cooking facilities and a communal living space for relaxation or eating. As a consequence of the lack of any internal communal space, the bedrooms are likely to be used for combined activities of sleeping, eating and living.
8. Given the modest size of the bedrooms, I am not persuaded that these would afford an individual adequate space to create a comfortable, private space to retire to and relax in. In particular, other than space for a bed, the smaller sized bedrooms would offer little space for an armchair or personal storage without compromising accessibility within the room.
9. Although there is a small enclosed rear yard, this offers little, if any, opportunity for external recreation. The need to maintain accessibility to the rear door through the yard in order to access four of the bedrooms further compromises space in addition to that already lost as a consequence of refuse and recycling bin storage. As such, the lack of any external amenity space further adds to my concerns that the proposal would not provide appropriate living space.
10. Although the Council has expressed concerns that noise and disturbance from the kitchen could have a detrimental effect on the occupants of the bedrooms above I do not find that this would be the case. It is not unusual in many HMOs for bedrooms to be positioned above kitchens and this is often dictated by the configuration of the original property. In this case, I do not consider that noise associated with cooking activities would be of such an extent to cause harm to the living conditions of the occupant of the bedroom above.
11. Also, I do not consider that the occupant of the ground floor bedroom, which has access directly off the street, would suffer noise and disturbance as a consequence of activities on the street of an extent that would harm living conditions. There would be little difference in any such noise or disturbance perceived at ground floor level from that at the bedroom on the first floor level. Although the ground floor window to the bedroom would be directly visible

from the street, the use of appropriate screening such as net curtaining for example would mitigate any potential loss of privacy without the occupant having to resort to other methods that would significantly compromise outlook.

12. Overall I find that the majority of bedrooms would not be large enough to provide sufficient space to retire and relax, nor would there be any communal living room space for relaxation and rest when not cooking, eating or sleeping. Therefore most occupants would be predominantly confined to their relatively small bedrooms for combined activities of sleeping, eating and living. This factor, together with the lack of any suitable internal or external spaces designed to cater for their general relaxation needs would adversely impact upon their living conditions.
13. I conclude that the proposal would fail to provide future occupants with satisfactory living conditions and an acceptable level of amenity. Consequently, the proposal would be contrary to Policy P10 of the Leeds Local Development Framework Core Strategy 2014 (Core Strategy) and Saved Policy GP5 of the Leeds Unitary Development Plan, Review 2006 (UDP). These policies, amongst other things, require that proposals should contribute positively to quality of life and provide a good level of amenity for future occupiers, including providing living accommodation which is of an appropriate size. The proposal is also contrary to advice provided in paragraph 17 of the National Planning Policy Framework which indicates that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Housing imbalance

14. The Council indicates that there are no other houses in multiple occupation on Longroyd Grove which consists of 77 dwellings. As such, I agree that the character of the street is predominantly family housing. The Council also suggest that the wider area is saturated with HMOs to the extent that it has been recognised as an area suffering from housing imbalance leading to an Article 4 Direction being made in 2012 which requires planning permission for the conversion of dwelling houses to HMO's of between 3 and 6 unrelated occupants.
15. The appellant suggests that the Council's HMO Licence Register dated 3 May 2017 states that there are 49 properties within the LS11 postcode covering the Beeston and Holbeck areas which represents approximately 0.3% of the housing stock within the postcode area. I accept the Council's view that a licence is only required should there be 5 or more persons living at a property if the premises is over 3 stories with shared facilities. As such, the appellant's calculation does not take into account properties occupied by less than 5 unrelated persons or HMOs within one or two storey properties and therefore it is not an accurate representation of the number of HMOs in the area.
16. Whilst there may be some doubt as to the precise number of HMOs in the area, I have no evidence in this case to indicate what percentage of HMOs relative to other housing would constitute an imbalance, over what geographical area such calculation should be made or any other form of calculation that would assist in defining the extent to which houses in the local area are occupied as HMO's and therefore, empirically, at what point an alleged imbalance in the community occurs.

17. Against this background, and taking into account the fact that there are no other HMOs on the street, I find that there is no conclusive evidence provided in this case that clearly demonstrates that there is an over provision of HMO's in the area to an extent that a housing imbalance exists and to define with any certainty or unambiguity that the site is located within an area having a high concentration of HMOs.
18. Furthermore, the Council's Officer Delegation Report identifies that the immediate area is not heavily affected by HMOs and therefore the proposals would be compliant with criteria (iii) of Policy H6 (Part A) of the Core Strategy. This policy indicates, amongst other things, that within the area of Leeds covered by the Article 4 Direction for HMOs, proposals for new HMOs will be determined to avoid detrimental impacts through high concentrations of HMOs, which would undermine the balance and health of communities. Taking into account the above factors, it has not been demonstrated in this case that the site is located within an area having a high concentration of HMO's to the extent that there is a housing imbalance that would result in a conflict with criteria (iii) of Policy H6 (Part A) of the Core Strategy.
19. Criteria (v) of Policy H6 (Part A) of the Core Strategy also indicates that proposals for new HMOs will be determined to avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs. I accept that the appeal property is suitable for family accommodation. However, given the absence of any demonstrable evidence in this case that the surrounding area can be reasonably defined as having a high concentration of HMO's and the absence of any other HMOs on the street, leads me to conclude that there is no clear or sound basis to suggest that the proposal would be contrary criteria (v) of Policy H6 (Part A) of the Core Strategy. Nor would it conflict with paragraph 50 of the National Planning Policy Framework which seeks to ensure that the planning system creates sustainable, inclusive and mixed communities.

Living conditions – occupants of nearby properties

20. The Council has referred to the Government Report 'Evidence Gathering – Housing in Multiple Occupation and possible planning response – Final Report' which indicates that concentrations of HMOs can result in anti-social behaviour, noise and nuisance resulting from an increase number, or different pattern, of comings and goings compared to a family living in the same property.
21. The supporting text to Policy H6 of the Core Strategy recognises that HMOs are an increasingly popular part of the housing market within Leeds and the policy seeks to balance the need for growth in HMOs with the need to avoid high concentrations which cause loss of amenity and undermine the health and stability of communities.
22. In this case, for the reasons outlined above, the appeal proposal would constitute the only HMO on the street and, as such, cannot be defined as contributing to a high concentration of HMO's in the immediate area. Whilst there would undoubtedly be a different pattern of comings and goings compared to a family living in the same property, I do not consider that an isolated HMO on a street with no other HMO's would in itself lead to noise and disturbance of an extent that would cause demonstrable harm to the living conditions of the occupants of neighbouring properties.

23. I have taken into account the Council's concerns that the proposal could result in an increase demand for on-street car parking. However, I note that the Council's Highways Officer identifies that there are no parking problems in this location and that parking can be accommodated on the street. In addition, the Highways Officer considered the site to be in an accessible location being within a 5 minute walk to bus stops. I have no reason to disagree with the views of the Highways Officer in that increased parking demand can be accommodated on the street and I observed at my site visit that there were no parking restrictions in place in the immediate vicinity.
24. Taking the above matters into consideration, I do not consider that there is any demonstrable evidence to suggest that the proposed change of use would cause any demonstrable and significant harm to the living conditions of nearby residents. Consequently, there would be no conflict with criteria (iv) of Policy H6 (Part A) and Policy P10 of the Core Strategy or Saved Policy GP5 of the UDP. These policies, amongst other things, indicate that proposals for new HMOs will be determined to ensure that relevant amenity and parking concerns are addressed and that proposals protect the amenity of the area.

Conclusion

25. I have found that the proposal would not result in the loss of a dwelling that is suitable for family accommodation to an extent that this would represent an over concentration of Houses in Multiple Occupation (HMO's) in the area and cause an imbalance in housing provision. In addition the proposal would not have a significant harmful effect on the living conditions of the occupants of nearby dwellings. However, these matters do not outweigh the harm that I have found that would be caused to the future occupiers of the property as a consequence of inadequate accommodation and amenity space.
26. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR