



Appeal Decision

Site visit made on 25 March 2019

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision Date: 20 May 2019

Appeal Ref: APP/G3110/W/18/3219520

147 Headley Way, Oxford, OX3 7SS

- 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 D Granat against the decision of Oxford City Council.
 - The application, ref. 18/01192/FUL, dated 8 May 2018, was refused by notice dated 6 July 2018.
 - The development proposed is the change of use of the property from C3 to C4 House of Multiple Occupation (HMO) (retrospective).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the revised National Planning Policy Framework (the Framework) was issued in February 2019 and I have had regard to it in reaching my decision.
3. At the time of my visit the change of use had occurred, and I shall deal with it on that basis.

Main issues

4. The main issue is the effect of the development upon the both the housing mix and the character of the locality.

Reasons

5. The Appeal property is a two-storey semi-detached dwellinghouse within a predominantly suburban area. Each of the properties maintain relatively large setbacks from the road with space in front of the dwelling behind the front boundary wall for the parking of vehicles. It is clear to me that from what I saw on my site visit that this street consists of a majority of single dwellinghouses and this forms part of its character.
6. The property and the wider street are subject to an Article 4 Direction which removed permitted development rights to change the use of any dwelling to an HMO. In areas subject to the Article 4 Direction, Policy HP7 of Oxford City Council *Sites and Housing Plan* (2013) (SHP) seeks to ensure that within any 100 metre stretch (on either side) of the road that there are no more than 20% of dwellings as HMO's, depending on site specific circumstances. In the

absence of any exceptional circumstances for this property the 20% threshold under Policy HP7 should be applied.

7. There is no dispute between the Council and Appellant that by using the criteria in Appendix 5 of the SHP there are 14 out of 55 properties in HMO use, a total of 25.4% (including the appeal property). Whilst this is over the threshold, the Appellant seeks an exception stating that without the appeal property in HMO use, the overall figure would still be over 20% and this would result only in a small increase of 1.8%.
8. Whilst the increase in HMO's in percentage terms may only be small this has also resulted in a decrease in the provision of family housing which is identified as a significant problem for the Council.
9. The benefits in providing a further mix in housing choice for working professionals as opposed to student housing are noted, indeed this is identified in the Council's Strategic Housing Market Assessment which identifies a need for professional housing. I also note benefits such as the compliance of the scheme with the Council guidance on room size, sustainability, licensing and amenity space. However, in my opinion these benefits could be achieved in a similar location which does not exceed the threshold set by the Council.
10. Moreover, whilst I note comments from the Appellant that Policy HP7 is 'crude' and aimed at student housing and that working professional housing should be treated differently; it would not be possible in planning terms to control the type of tenant given there is no distinction between professional and student accommodation in the planning regulations.
11. I also note comments put forward by the Appellant with regards to the use of the HMO and that there have been no external alterations to the property in order to facilitate the change of use but this does not outweigh the fundamental policy conflict with Policy HP7. Whilst the HMO may not be visually altered or present to the street scene differently (except for increased bins), the character of a single family dwellinghouse and that of HMO's is generally materially different. Whilst there may be similar levels of overall occupancy in terms of the general number of inhabitants, HMO's typically increase the density of occupation which can, in turn, have an effect on the activity generated by both people and vehicles, as well as the likelihood of requiring additional refuse facilities and additional stresses on local infrastructure.
12. The occupiers of an HMO are also made up of independent tenants (as opposed to a lodger or friend renting a room from a larger household) who each may bring friends or have a different lifestyles, resulting in movements, noise and disturbance at different times of the day and night in stark comparison with that typically associated with a single family dwelling. Whilst I appreciate that the use of an HMO is already in existence and no formal noise complaints have been received, this is to a large extent dependent upon the tenants at any point in time and which are generally subject to frequent change. It also follows that if the majority of dwellings within Headley Way were to be converted to a HMO, their presence, whilst not necessarily changing the physical appearance of the buildings, would be

significantly detrimental to the local character, housing mix, living conditions and experience of this street scene which goes beyond a purely visual perception.

13. Consequently, I find that the loss of a family dwellinghouse has resulted in significant detriment to the housing mix contrary to Policy HP7 of the SHP which seeks to avoid an overconcentration of HMOs and to maintain a balance in the mix of housing in the locality.

Other Matters

14. It is noted that each of the existing tenants has a shorthold tenancy and that dismissing the appeal may lead to the eviction of the current tenants. The appellant argues that this would be an interference with their rights under Article 8 of the European Convention on Human Rights or Human Rights, as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established planning policy aims to protect the housing mix, character, appearance and living conditions of the neighbouring dwelling houses, I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the occupants of the HMO.
15. The request from the Appellant to consider granting a temporary change of use in order to analyse the resultant impacts of the scheme is noted. However, the principle of further HMO's in this location given that the number already exceeds the threshold makes the appeal scheme unacceptable. Consequently, it would contribute to the imbalance of housing mix and over proliferation of HMO's as discussed. In any event it would be for the Council to specify the compliance period in any subsequent proceedings.
16. I note that the Framework encourages the development of sustainable sites near to services, infrastructure and amenities and the reduction of pressure on countryside and green belt locations. Whilst this weights in favour of the scheme it does not outweigh the harm I have identified.

Conclusions

17. For the reasons given and having regard to all other matters raised the appeal is dismissed.

J Somers

INSPECTOR