

Appeal Decision

Site visit made on 18 June 2019

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Appeal Ref: APP/N4720/W/19/3225897

12 Stanmore Hill, Burley, Leeds LS4 2PW

- 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 Waid Dad against the decision of Leeds City Council.
 - The application Ref 18/07595/FU, dated 8 December 2018, was refused by notice dated 20 February 2019.
 - The development proposed is change of use and conversion from a 3 bedroom house to a five bedroom house in multiple occupation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the character and appearance of the area; the effect on the living conditions of future residents with regard to light, outlook and the size of the accommodation; the effect on neighbouring residents with regard to the intensification of the use; and the effect on the housing mix of the area.

Procedural Matters

3. The appellant suggests that the property has been in use as a house in multiple occupation (HMO) for more than ten years and is therefore lawful. An application has been submitted to the Council seeking a certificate of lawful development. The Council have not determined the application. I have not been provided with the evidence submitted with that application and in any event, it is not the purpose of this appeal to determine lawfulness. In the absence of planning permission or a lawful development certificate, it cannot be assumed that the use of the property is lawful. I have therefore assessed the appeal on the basis of the application submitted.

Reasons

Character and appearance

4. The proposal includes the provision of a large dormer window which has already been installed. It allows for the provision of an extra bedroom in the roof space. The new dormer extends across most of the width of the frontage of the property. It dominates the roof and represents particularly poor design.
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Whilst it has replaced a similar box style front dormer, this was of more modest proportions, retaining much of the form of the roof to each side. There are many examples of dormer windows in the area, including full width dormers, but they are not positive features within the street scene.

5. This element of the proposal detracts from the character and appearance of the area and represents poor design. It conflicts with the design requirements of policy 10 of the Core Strategy 2014 (CS) and policy BD6 of the Unitary Development Plan 2006 (UDP). As these policies generally accord with the design requirements of the National Planning Policy Framework (the Framework), I afford them considerable weight.

Living conditions

6. The basement room is served by a very small window at pavement level. As there is no external light-well, the window is set above the level of the room that it serves. The privacy of residents would not be harmed as the window offers very limited potential to view the room below and much of the room is entirely out of view from the street. Although I was not able to gain access to the property, it is evident that a window of this size and in this position would not provide suitable levels of light or outlook within the room. It would result in conflict with the amenity requirements of CS policy P10(iii) and UDP policy GP5. It would also be contrary to part (iv) of CS policy H6A which seeks to ensure that proposals for HMOs address relevant amenity concerns. These policies are consistent with the element of the Framework which requires a high standard of amenity for future residents.
7. I acknowledge that this room is shown as a bedroom on the as existing plans. Whilst there is more certainty that it would be used as a permanent bedroom as a HMO, there is also a likelihood that it would be used as a bedroom if the property continued as a family home. I therefore afford reduced weight to this concern but it remains a matter that weighs against the proposal.
8. The Council has also raised concern with regard to the room sizes. I have not been directed to a policy that makes reference to space standards and based on the measurements on the plans, the rooms appear to be adequate for their intended purposes. Concern has also been raised with regard to the basement room being directly below the living room and kitchen; and the potential for noise from the accommodation impacting on neighbouring residents. Although the living room and kitchen, and the property in general, may be more intensively used, I am not satisfied that the proposed relationships would result in the concerns raised.

Housing mix

9. This property falls within the area of an article 4 direction which takes away permitted development rights with regard to changes of use from dwellinghouses to small HMO. With regard to locations such as this, which are close to a range of services and employment opportunities, CS policy H6A accepts that both HMOs and family houses are important. It seeks to balance the need for a sufficient supply of HMOs with the need to retain adequate provision of family housing. Whilst encouraging HMOs in this type of area, it seeks to avoid an overconcentration so that the family housing remains attractive for family use.

10. The Council suggest that there is a high concentration of HMOs with eighteen others in the area. The poor physical condition of a number of properties in the vicinity and the number of To-Let signs supports the Council's view. However, I have no information with regard to the housing supply or the housing need figures for this specific area and the HMOs have not been identified.
11. The supporting text to CS policy H6 suggests that some houses tend to be more suitable for families and when these are in areas with high concentrations of HMOs they should remain available for occupation by families. Factors to consider include the size of the dwelling, the amount of garden and private amenity space available, location of the property and any prolonged period of vacancy. Whilst satisfactory for family use, this is not a property that is clearly better suited to family use, given the limited outdoor amenity space. However, it would offer acceptable low cost accommodation for a small family.
12. Whilst there are a number of HMOs in the vicinity, there is no evidence to suggest that this is a street where there is already such a high concentration that the remaining dwellings would be unappealing and effectively unsuitable for family occupation. On the basis of the limited evidence available and given the lack of evidence to the contrary, I am minded to agree with the Council that this is an area where CS policy H6A supports the retention of family housing rather than allowing new HMOs. The loss of this family dwelling would therefore be contrary to CS policy H6A(v).
13. Even if I had found that this area could accommodate additional HMOs and would therefore satisfy CS policy H6A(i & ii) with regard to maintaining sufficient supply of HMOs in accessible locations, the positive benefits of this additional HMO would not be sufficient to outweigh my concern with regard to the visual impact of the dormer window.

Conclusions

14. The appellant suggests that the proposal should benefit from the presumption in favour of sustainable development but given the design and amenity concerns, it cannot be considered to represent sustainable development. The large dormer detracts from the character and appearance of the area and represents poor design. I afford considerable weight to this concern. The basement room offers unacceptable levels of amenity and adds further weight against the proposal.
15. Although the evidence provided is limited, I consider that this is a location where CS policy H6A supports the retention of family accommodation. In any event, even if additional HMOs were found to be needed, I am not satisfied that the benefit of this additional unit would be sufficient to outweigh my other concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR