
Appeal Decision

Site visit made on 4 December 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Appeal Ref: APP/X1355/W/19/3236839

18 Boyd Street, Durham DH1 3DP

- 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 Ian McKay against the decision of Durham County Council.
 - The application Ref DM/19/00564/FPA, dated 5 February 2019, was refused by notice dated 24 April 2019.
 - The development proposed is described as "to change the status of the property from residential to House of Multiple Occupation. We believe this requires a change of classification from C3 to C4. We would also like to add a downstairs shower room, re-position the upstairs shower room and add a kitchen extension".
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Decision

1. The appeal is dismissed.

Main Issue

2. The site is located within the designated Durham City Conservation Area (CA). The Council has refused planning permission on the basis that the development has a harmful effect upon the range and variety of the local housing mix and would be likely to increase the fear of crime and undermine community cohesion. The Council has not refused planning permission on the ground that the development harms the character or appearance of the CA, and I have no reason to take a different approach. In that context, the main issue is whether the proposal would lead to a concentration of student housing which would adversely affect the living conditions of residents or be detrimental to the mix of the housing stock.

Reasons

3. The appeal property is a modest two storey terraced dwelling situated on Boyd Street in close proximity to the main campus of the University. I saw at my site visit that most of the properties already appear to be occupied by students and I note that the appeal property is within an Article 4 area where changes of use from a C3 dwelling house to a C4 house in multiple occupation (HMO) are excluded from permitted development.
4. The appellant suggests that the Local Plan (LP) is out of date by virtue of its considerable age and because it predates the National Planning Policy Framework (the Framework). However, while the LP is clearly now of some age, Policy H9 is nonetheless broadly consistent with the Framework's aims of addressing the housing needed for groups of people with specific housing

requirements. Therefore, in this regard the relevant policies are not absent, silent or out of date.

5. Saved Policy H9 of the City of Durham Local Plan - May 2004 (the LP) relates to houses in multiple occupation, student households and specifically to the conversion of properties to HMO use. The policy states that the conversion of houses for multiple occupation will be permitted provided that, amongst other matters, will not adversely affect nearby residents, be in scale and character with its surrounding and it will not result in concentrations of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
6. Furthermore, the Council has adopted an Interim Policy on Student Accommodation (the IPSA). This is not part of the development plan and I regard it as being broadly equivalent in status to supplementary planning guidance.
7. IPSA Part A states that in such circumstances proposals will not be permitted if more than 10% of the total number of properties within 100 metres of the appeal site are already in use as HMOs or student accommodation. In all instances, IPSA Part A states that proposals will only be permitted where the proposal accords with the requirements of points (a) to (d). However, it goes on to note at (e) that 'such changes would not be resisted' where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm.
8. On the basis of the figures provided by both parties it is clear that the 10% figure is exceeded and as such, unless the appeal proposal benefits from the exemption allowed by point e) of the IPSA, the proposal would be contrary to the IPSA.
9. The Council's Statement of Case details that the current up to date percentage of HMO properties within 100m of the appeal site is 46%. This is a reduction from 54.1% at the time of the determination of the application. The appellant disputes these figures and identifies a significantly higher figure for Boyd Street only.
10. I note the appellant's comments with regards the character of Boyd Street differing from other streets in the area and I noted at my site visit that the street is a no thru-road. Furthermore, I note that the Council has acknowledged that 66.7% of the properties on Boyd Street are already HMOs. Nonetheless, the policy clearly refers to 'an area' and I find that the relevant area is not restricted to Boyd Street only.
11. It is clear that the area accommodates a high proportion of students. However, I do not find that the evidence before me demonstrates that the area around the appeal site already has such a high concentration of, specifically, HMOs that the conversion of the appeal property would not cause further harm. Therefore, I find the appeal proposal does not benefit from point e) and is contrary to the provisions of the IPSA.
12. Turning to Saved Policy H9 of the LP, it has previously been established that HMOs make up a proportion of the properties in the area. However, on the basis of the evidence before me I find that it has not been demonstrated that the appeal proposal would not be detrimental to the range and variety of the local housing stock. Indeed, the City of Durham Parish Council, City of Durham

Trust and Whinney Hill Residents Association have object to the proposal referring to such concerns.

13. I therefore find that the proposal would be detrimental to the mix of the housing stock in the area and is therefore contrary to Saved Policy H9 of the LP, and the provisions of the IPSA.

Other Matters

14. The appellant has referred to a number of other appeal decisions¹. However, I do not have full details of the circumstances that led to these proposals being accepted and, in any case, I have determined the appeal on its own merits.

Conclusion

15. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR

¹ APP/X1355/W/19/3222572 - 31 May 2019; APP/X1355/W/16/3165827 - 16th March 2017