



Appeal Decision

Site visit made on 10 February 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2020

Appeal Ref: APP/N4720/W/19/3240776

81 Cardigan Road, Headingley, Leeds LS6 1EB

- 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 K Hussain (Usman Properties (Leeds) Ltd) against the decision of Leeds City Council.
 - The application Ref 19/02698/FU, dated 1 May 2019, was refused by notice dated 28 June 2019.
 - The development proposed is change of use of dwelling house to one 3 bedroom flat HMO (C4) and one 10 bedroom flat HMO (Sui Generis).
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Decision

1. The appeal is dismissed

Procedural Matters

2. The appellant indicates that the description of the development has not changed. However, the description on the appeal form is not the same as the application form. I have taken the description of the development from the appeal form as this describes the development succinctly and I have determined the appeal accordingly.
3. In addition, I have removed reference in the description to the development being retrospective as this is not in itself development. However, I saw at my site visit that the House in Multiple Occupation (HMO) use has commenced and that the appeal is retrospective.
4. Since the consideration of the planning application the Council has adopted the Leeds Sites Allocations Plan Development Plan Document (SAP) July 2019. This document forms part of the development plan. The Council indicate that since the adoption of the SAP, it is able to demonstrate a minimum 5-year housing land supply. Although I understand that the SAP is subject of a judicial review, I have no details as to which aspects of the plan are being challenged. In any event, the SAP remains part of the relevant development plan until the courts find otherwise.
5. The site is located within the Headingley Conservation Area (CA). Therefore, the statutory duty under section 72(1) of the planning (Listed building and Conservation Areas) Act 1990 that special attention be paid to the desirability of preserved or enhance the character or appearance of the CA is engaged. Neither party made reference to the CA. I therefore sought additional comments from the parties on the effect of the development on the CA. The parties agree that the development would preserve the character and

appearance of the CA. Based on the evidence before me I see no reason to disagree with this conclusion.

Main Issues

6. The main issues are the effect of the development on:

- the supply of family housing;
- the living conditions of the occupiers of neighbouring properties with particular regard to anti-social behaviour, noise and disturbance; and
- the free flow of traffic and pedestrian safety

Reasons

Supply of family housing

7. The appeal site is a substantial semi-detached property located within the CA. Cardigan Road adjacent to the appeal site is characterised by substantial properties set back from the road with large front gardens providing mature landscaping to the road frontage. To the rear of the site are several streets of mainly terraced properties.
8. As a consequence of its proximity to the universities, the area around the appeal site is popular with students and there is a high concentration of houses in multiple occupation (HMOs).
9. In order to maintain an appropriate balance of housing types to support sustainable services and local communities, the Council has introduced an Article 4 Direction in this area which removes permitted development rights in respect of a change of use from C3 dwelling houses to C4 HMOs. Accordingly, Policy H6 of the Leeds City Council Core Strategy adopted November 2014 (Core Strategy) aims to avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs. The Policy also seeks to control the conversion of dwellings in areas of high concentration of HMOs to avoid the detrimental impacts of undermining the balance and health of communities.
10. The appellant's statement at appendix 7 provides a plan identifying the location of surrounding HMO properties. I acknowledge the limitations expressed by the appellant regarding this location plan in terms of there being a number of sites that may not need to be, or are not registered HMO's, that the location plan does not account for. However, the plan shows that there is clearly a significant number of HMO properties within the vicinity of the site. This includes areas adjacent to the rear of the appeal property along Norwood Terrace and Norwood Road.
11. However, the plan also identifies that along the Cardigan Road frontage and on the entrance to Cardigan Lane, HMO occupation is markedly less, and the appeal sites immediate environs retains C3 dwelling uses. The text to Policy H6 states that those dwellings that are in high areas of concentration of HMOs should remain available for occupation by families. I appreciate that the current internal arrangement is not that of a family dwelling and that the property is large. However, its current arrangement reflects the HMO use and

I have no evidence before me that the internal layout of the property was not previously or could not be made suitable for occupation by a family. It has a garden with vehicular access which provides a separate and private curtilage and I am not aware of the property having a long period of vacancy. The property has easy access to shops and community facilities. Its immediate environment does not have a high concentration of HMO's to the extent that the site would be unappealing and effectively unsuitable for family occupation.

12. The supporting text of Policy H6 includes an 'exceptions test', which applies in situations where the proportion of HMOs in a street is so high that the conversion of remaining C3 dwellings would not cause further detrimental harm. In these circumstances, it may be difficult to market the remaining property or properties. In this case, there is limited evidence to suggest that this is one of the last few remaining family houses in this street.
13. Consequently, I conclude that the change of use has resulted in the unacceptable loss of a family house. It would conflict with Policy H6 of the Core Strategy and Policy GP5 of the Leeds Unitary Development Plan (review 2006)(UDP) which seek to retain an adequate supply of family homes as well as balanced and healthy communities. It would also be in conflict with the social objectives of the National Planning Policy Framework (the Framework), which emphasise the need for development to support strong, vibrant and healthy communities including a sufficient number and range of homes.

Living conditions

14. There is evidence before me in the form of third-party representations of the detrimental effects that a high concentration of HMOs has in this area.
15. According to the appeal submissions the next-door property, No 85 Cardigan Road, is in residential occupation (Class C3) as are many of the properties on the approach to the site along Cardigan Road. No 85 is set forward of the appeal site. The side elevation of the appeal property faces towards the rear garden of No 85 with the access to the lower flat via a side entrance which sits in close proximity to the boundary with No 85.
16. I recognise that the property is substantial and could be occupied by a large family. Nevertheless, the two flats provide accommodation for up to 13 unrelated students. A reasonable expectation is that each student occupant of the HMOs would have their own schedule, deliveries and visitors. Although the site is well screened from Cardigan Road and has a good amount of land within its curtilage, the approach to the site along Cardigan Road passes many residential properties. As a consequence of the student occupation, there is likely to be a significantly higher level of activity at and around the site. The associated noise and disturbance from the higher occupation would, particularly in the evenings and later at night, be likely to be disruptive and hence would have a detrimental effect on the living conditions of neighbouring residents. The noise and disturbance would be particularly significant to the occupier of No 85 who shares a common boundary with the appeal site with access into the lower flat in close proximity.
17. I therefore conclude that the development would result in harm to the living conditions of the occupiers of neighbouring properties. In this respect there

would be conflict with Policies C6 and P10 of the Core Strategy and Policy GP5 of the UDP which seek, among other things, to protect the residential and general amenity of the area. The policies are consistent with the design objectives of the Framework with which the development also conflicts.

Free flow of traffic and pedestrian safety

18. During my site visit I observed that the site is in a highly sustainable location close to local centres with a wide variety of shops and other facilities. The site is served by good public transport links and the university campuses are within easy access of the site. The site itself has a rear vehicular access to a hard-surfaced area; the drawings indicate that the rear area could provide two car parking spaces and adequate cycle parking. There is a separate pedestrian access to the site from Cardigan Road.
19. I noted at my visit that the adjacent streets to the rear of the site are not subject to any parking restrictions and that there were a number of spaces available for vehicles to park. Whilst there may be greater demand for on street parking at different times of the day and in the evening, I have no evidence before me which would lead me to conclude that harm to highway or pedestrian safety would result from the increased parking demands.
20. Consequently, I conclude that the development would not be detrimental to the free flow of traffic or pedestrian safety. In this respect the development would accord with Policy T2 of the Core Strategy and Policy G5 of the UDP which requires development to be in accessible locations which are adequately served by highways, public transport and with safe and secure access for pedestrians. The policies are consistent with the Framework which only seeks to refuse development on highway grounds if there would be unacceptable impacts on highway safety.

Other Matters

21. The appellant states that the additional housing could contribute to the Council's housing land supply. I have not been provided with any evidence of the contribution the student housing would make to the wider housing market. As such, while the proposal would contribute to housing land supply this has not been quantified in terms of number of dwellings. The Council have confirmed that they can currently demonstrate a 5-year supply of housing sites, and the appellant has not disputed this. I therefore attach very limited weight to the contribution the HMO could make to the supply of housing within Leeds.
22. I appreciate that the accommodation is of a high standard and that economic benefit could flow from having a thriving student population. However, the purpose of Policy H6 is to balance the benefits of providing HMO accommodation with the need to provide for other sectors of the local community and hence provide balanced and healthy communities. For this reason, I attach very limited weight to these benefits in the overall planning balance.
23. I have noted the various appeal decisions referred to by the parties. While there are some parallels between these cases and the appeal site my decision

is based upon the particular site circumstances. Therefore, these appeal decisions have not been determinative in my consideration of the development.

Conclusion

24. I have identified that the proposal would result in the unacceptable loss of a family house and would harm the living conditions of adjacent occupiers. As such, I find that the proposed development would conflict with the development plan, when read as a whole. No other matters have been put forward that would outweigh the significant harm I have identified.

25. Therefore, for the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR