



Appeal Decision

Site visit made on 23 November 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2020

Appeal Ref: APP/G3110/W/20/3256478
234 Headington Road, Oxford OX3 7PS

- 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 John Shiri, on behalf of Choices Consultancy (UK) Ltd, against the decision of Oxford City Council.
 - The application Ref 19/02878/FUL, dated 3 June 2015, was refused by notice dated 29 January 2020.
 - The development proposed is the change of use from C3 to C4.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Council refused planning permission to change the use of the property from a dwelling to a House in Multiple Occupation (HMO). However, the application submitted by the appellant referred to an application for a Lawful Development Certificate. Nevertheless, the Council has provided a planning application form dated from 2015. This relates to the site and the use proposed. Although an old form, I have used the description listed on this as it accords with the proposed use that was the subject of the decision notice appealed against.
3. The appellant's name on the appeal form refers to Dr Mohammed Sadegh Parvizi. However, the application form lists the applicant as John Shiri. Correspondence from Mr Shiri has since confirmed that the appeal should proceed in his name.
4. The Oxford Local Plan 2036 is in draft form. The Council has identified that this is at an early stage and I have therefore attributed limited weight to this.

Main Issue

5. The main issue is the effect of the proposed change of use on the character of the area and its effect on the achievement of balanced communities.

Reasons

6. The appeal site is a semi-detached property. The local area consists of similar such dwellings and a number of these are in use as a HMOs. Existing HMOs are within 100 metres of the site as illustrated by the Council's evidence. When collated this illustrates that 12 of the nearest 30 properties are in such a use. As such, the site is within an area with a relatively high concentration of HMOs.

Consequently, the character of the area is a combination of family accommodation and commercial let properties.

7. The development plan for the district includes the Oxford City Council Sites and Housing Plan 2011-2026 (2013) (S&HP). Policy H7, of the S&HP seeks to restrict the loss of existing dwellings and only allow HMOs if they would not adversely affect the character of an area. This states that the proportion of buildings, used as HMOs within 100 metres of a site, shall not exceed 20% to maintain balanced communities. The companion text to the policy explains that an over concentration of HMOs can result in parking problems and transient households and affect the affordability of renting and buying properties in Oxford. Appendix 5 of the Plan provides further guidance as to how the policy is applied and qualifies the definition of an HMO for policy understanding.
8. The site is within an area subject to an Article 4 direction which was made in 2012. This means that proposals for HMOs, with between 3-6 occupiers, require planning permission. The site is within close proximity of Oxford Brookes University and three hospitals. The local area has a high proportion of multi-let accommodation and is subject to particular pressure from such conversions. If unregulated these would be harmful to the character of the area. The concentration of such properties would result in social pressures including adverse impacts on local services.
9. The proposal would increase the quantity of HMOs, within a 100-metre radius, to around 44%. This would therefore be in breach of the threshold established by the Council's policy. This would result in the creation of a further HMO which would not propagate the provision of a balanced community as defined by the policy. Consequently, the proposal would be harmful to the character of the area through a further reduction in the quantity of family housing. Therefore, the scheme would promote community imbalance through intensifying the existing use of the dwelling in an area that is already characterised by a large number of HMOs.
10. Consequently, the proposal would not support balanced communities and would be contrary to Policy HP7 of the S&HP. This policy is consistent with the National Planning Policy Framework that supports strong, vibrant and healthy communities.

Other matters

11. The site enables good access to several institutions. This would therefore provide accommodation that the appellant regards as good value accommodation for students and staff who would benefit from such a facility. This would be of some benefit but would not outweigh the conflict found with the development plan in seeking balanced communities.
12. The appellant has provided evidence that the property may have been in use as an HMO since 2010. Therefore, he asserts that planning permission is not required as the proposed use was in place prior to the making of the Article 4 Direction. However, this matter has no bearing on the merits of this proposal which must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, a planning application for a change of use has been made and refused by the Council and is the subject of this appeal. Therefore, matters relating to the need or otherwise for planning permission are outside the scope of this appeal. This decision would

not prejudice the outcome of any future application made for a lawful development certificate.

13. The appellant has questioned the status of several HMO's along Valentia Road and the Council's approach to those in defining a distinction between a dwellinghouse and HMO. Although consistency in approach is important in decision making, I have not been presented with compelling substantive evidence that would lead me to come to a finding that an inconsistent approach has been taken in this case.
14. The appellant has asserted that his human rights have been harmed. I do not consider this argument to be well-founded. I have found that the proposed development would conflict with the development plan and as such would be an unacceptable proposal. Therefore, the degree of interference that would be caused would be insufficient to give rise to a violation of the appellant's qualified rights under Article 1 of the First Protocol or Article 8.

Conclusion

15. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR