



Appeal Decision

Site Visit made on 16 November 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/C2741/W/21/3279458

Waterloo House, Fawcett Street, York, YO10 4AH

- 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 KMRE Group (Church Fenton) Limited against the decision of City of York Council.
 - The application Ref 20/01521/FULM, dated 21 August 2020, was refused by notice dated 21 June 2021.
 - The development proposed is the erection of a 3 and 3.5 storey student accommodation block (providing 86 student rooms) following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposal would provide suitable living conditions for future occupiers, having specific regard to the proposed communal amenity space.

Reasons

3. The appeal proposes 86 self-contained studios with en-suite bathrooms and facilities to 'cook, study, and relax'. These studios are spread over several floors, arranged either side of a long central corridor. On the ground floor, plans show a number of 'Amenity/Shared Areas', indicated by shading and labelled as 'Student Amenity Space', Reception/Waiting Area', 'Laundry', 'Cycle Store' and 'Plant Room/Services'. Despite this, the appellant states that the proposal will deliver 86 sqm of internal shared communal space, excluding corridors, entrances, foyers, cycle stores and reception areas. This equates to 1 sqm of internal shared communal space per studio (or per bed-space as described by the appellant). The proposed studios include double beds.
4. The single area of internal shared communal space has a wide and varied role in the proposal. It is intended to be provided with clustered sofas and chairs, casual café tables and chairs, vending machines and televisions. The appellant sees this space as being used for communal activities amongst the residents, including the viewing of films, sports events, infrequent large-scale social events and parties, a space to relax and socialise, and suggests that its location close to the main entrance will help to promote opportunities for informal, unplanned interaction and offer a convenient and communal meeting point for students.

5. The internal shared communal space is to achieve all of this with 1 sqm of space per studio. Noting, as I have mentioned, that the studios include double beds, the density of people wishing to use the space could of course be greater than that.
6. I acknowledge that there are no policy requirements in York, or indeed nationally which control, or seek to provide standards for communal space in purpose-built student accommodation. I also acknowledge that the proposal apparently meets or exceeds standards set in Leeds and Camden. I note the comparisons made by the appellant between this proposal and others in the city.
7. The lack of specific relevant local or national policy is unfortunate. However, I do not find that the compliance of the proposal with policies from other areas, or the numerically favourable comparison of it with some other schemes in this area is necessarily indicative of its acceptability. I do not find that the evidence before me clearly sets out how or why the space proposed is acceptable, other than through simple comparisons with other schemes. Whilst there is something of a policy vacuum, both the National Planning Policy Framework (the Framework) and the National Design Guide (NDG) give strong guidance and set strong expectations around the standard and quality of amenity space, internal space and highlight the importance of delivering good design which functions well and delivers suitable living conditions.
8. Although the appellant states that their model of provision is supported by customer demand, offers more space than other schemes and was recommended for approval by Officers, I am not convinced that the space proposed is sufficient, even acknowledging the size of the studios themselves. Particularly having regard to its size, the overall scale of the proposal, the potential number of users and its location in a single space, performing a host of functions, some of which could be limited by the space being in essence, an extended entrance foyer.
9. In addition, although there are facilities and services within walking distance of the site, I am not persuaded that it is appropriate to delegate the provision of internal shared communal space to them in lieu of proper provision of appropriate space within the proposal itself. Whilst I accept that the development could support those facilities, there is no guarantee of their long-term sustainability or availability to provide space which the Framework and NDG suggest should reasonably be provided within the development itself.

Planning balance

10. In light of the development plan situation in York, set out by the Council in their statement, I agree with the appellant that there are no relevant development plan policies. The test in paragraph 11d of the Framework is therefore engaged.
11. There are benefits which arise from the proposal, which the appellant has set out in their submissions, and I agree that the delivery of student housing in an area of demand, the investment, job creation, local spending, redevelopment of a vacant site, efficient use of land, the promotion of sustainable transport and the use of sustainable construction methods are all benefits which weigh in favour of the proposal.

12. However, I have also found that as a result of the proposed internal shared communal space, the proposal would not provide suitable living conditions for future occupiers, would not represent a well-designed place, would not have a high standard of amenity for future users, and would not provide internal environments of a suitable standard and quality. In those respects, the proposal would be specifically contrary to guidance in the Framework and the NDG. These potentially poor living conditions, contrary to the requirements of the Framework and the NDG would be a serious failing and could lead to serious harm.
13. I therefore find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would not therefore benefit from the presumption in favour of sustainable development.

Other Matters

14. The appellant has referred to a planning obligation, delivering contributions towards open space for recreation and amenity, to compensate for the lack of a policy compliant amount of open space on the site. Despite the time which has elapsed since the appellant became aware of the need for such an obligation I have not been provided with an executed, certified version of it, either in line with the timetable in The Procedural Guide: Planning appeals – England or my subsequent request, so I cannot take it into account in my decision. I note the comments from the appellant around these timescales.
15. However, for the reasons set out above, this matter is not determinative, so I do not consider that any prejudice arises from this decision being made without that planning obligation being before me.

Conclusion

16. As noted, there are no relevant development plan policies. However, the proposal conflicts with national policy expressed in the Framework and the NDG, and this is material to my decision on this appeal. That conflict is not outweighed by the benefits of the proposal. I therefore conclude that the proposal would not provide suitable living conditions for future occupiers, having specific regard to the proposed communal amenity space.
17. The appeal should therefore be dismissed.

S Dean

INSPECTOR