



Appeal Decision

Site visit made on 18 January 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2022

Appeal Ref: APP/N4720/W/21/3283332

16 Midland Road, Leeds LS6 1BQ

- 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 Oliver Gibson against the decision of Leeds City Council.
 - The application Ref 20/08621/FU, dated 23 December 2020, was refused by notice dated 22 March 2021.
 - The development proposed is a change of use from residential (C3) to house in multiple occupation (C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Reference is made by the main parties to the Leeds City Council Development Management Practice Note – Houses in Multiple Occupation (May 2019) and there is some dispute as to its status in decision making on applications referring to houses in multiple occupation (HMOs). The Note is not a statement of policy and does not change the wording or primacy of the development plan. It is not referred to in the Council's Decision Notice. Although supplementary planning documents are capable of being a material consideration in planning decisions, there is little evidence that the document has been subject to any external consultation or ratified otherwise. Whilst relevant, its commentary is therefore a matter of limited weight in my consideration of the appeal.
3. The appeal property lies close within the Headingley Hill & Hyde Park & Woodhouse Moor Conservation Area (CA). There is no dispute between the main parties that the proposed development would not have an adverse effect on the character and appearance of the CA. Pursuant to the duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site I concur with that view. This is because the proposal does not seek to change the external appearance of the building. Accordingly, it is my view that the development would preserve the designated area and I shall make no further reference to this matter.

Main Issues

4. The main issues are the effect of the development on:
 - the mix of housing types in the locality in the interests of achieving balanced communities
 - the living conditions of nearby residents.

Reasons

Housing mix

5. Midland Road is a residential street of terraced properties set behind enclosed front gardens with amenity spaces to the rear of the buildings. 16 Midland Road presents as a 3-storey building to the frontage. It benefits from additional living space on a lower ground floor at the level of the rear garden area to provide 4 floors of accommodation in all. The building lies at the end of a row of similar terraced units but is flanked by a short row of vacant 2-storey premises fronting on to Back Kensington Terrace, a small side road.
6. The area is covered by an Article 4 Direction that alongside Policy H6 of the Leeds City Council Local Plan Core Strategy (as amended by the Core Strategy Selective Review 2019) [2019] (CS) seeks to manage concentrations of houses in multiple occupation (HMOs), student accommodation and flat conversions. This is in the interests of avoiding the recognised adverse effects of high concentrations of HMOs and achieving balanced and healthy communities. In seeking to achieve this, Policy H6 explicitly seeks to avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs.
7. There is no dispute between the main parties that the area contains a high concentration of HMOs and other types of accommodation that are particularly attractive to students given its proximity to learning centres and amenities.
8. As a property typical of family accommodation at the time of its construction, the layout of the house, room sizes and outdoor amenity spaces remain capable of serving that original function. In contrast to some surrounding back-to-back terraces, the site offers greater outdoor amenity space and off-road parking options that would be attractive to some larger multigenerational family units.
9. According to the appellant's evidence there are a number of other dwellings which remain in C3 use on Midland Road. In addition to the appeal site, the houses at numbers 17, 19 and 27 are indicated as C3 dwellinghouses. Other properties are divided into flats or are used as HMOs with high levels of student occupancy. However, the lawful status of some buildings used as HMOs is unclear. An adjoining property at 16A Midland Road is unclassified. Accordingly, I find that the street retains a meaningful mix of housing and is not therefore at a point where a further change of a family house to an HMO would go unnoticed.
10. In the context of an area-based policy with the strategic aim of rebalancing communities, the proposal would cause a greater imbalance of housing types in the locality. Although it would only cause an incremental change at the community scale, such that it would be difficult to assess the exact harm caused by the loss of a family housing unit, it would nevertheless run contrary to the adopted strategy of managing the extent and spatial distribution of family housing in areas of high concentration of HMOs.
11. In that context I am not persuaded that the appellant's initial approach of focussing on only part of the street is valid in the circumstances of the case. Although the terrace is a single block of development within a wider housing area, the effects of its occupation will extend much further.

12. In support of the proposal the appellant refers me to local crime figures and draws comparisons with other areas of the city. However, it is not possible to draw firm conclusions from those data. The limit of 2 recorded incidents in the street during a 12-month period including Covid-19 lockdowns, periods of restricted movement and home working/learning are unlikely to be representative of prevailing conditions. Moreover, the crime rates, which are above the national average, are only one indicator of the wider environmental effects of high concentrations of HMOs identified.
13. At my site visit I observed that the condition of some properties identified as in short-term tenancy use were poor. The area had significant levels of graffiti and defensive security measures were a common sight on the buildings. These are indicators of some of the impacts of high concentrations of HMOs referenced in the supporting text to Policy H6 and are some of the issues it seeks to address. A subsequent increase to the ratio of HMOs to family accommodation would oppose the strategic aims of the policy. Deferring their impact to regulatory authorities is unlikely to proactively address those identified harms.
14. Notwithstanding the presence of family houses elsewhere on the street, the existence of increasing numbers of transient residents taking up short term leases is more likely to give rise to some, if not all, of the identified effects of high concentrations of HMOs. This could make the area unsuitable for family housing.
15. In support of the proposal, evidence is provided of a marketing exercise for the property as a C3 dwellinghouse. There is dispute between the parties as to the reasonable valuation of the property for the purposes of testing the market for the desire to retain the building as family type accommodation. However, it is clear from a valuation provided in early 2021 that a period of earlier marketing was at asking prices unlikely to achieve a representative outcome. I acknowledge that, despite some conflicting evidence as to when it took place, some reduced-price marketing for sale (only) has subsequently taken place, however, this was for a limited period in the run up to the appeal.
16. I note that some interest from non-investor parties was not pursued on the basis of surrounding HMO occupation, however, it is unclear at what asking price those expressions of interest occurred and whether the market's dictation of price has subsequently been further acted upon. It does, however, support the Council's stance that family accommodation is sought in an area benefitting from good local amenities and facilities. I am therefore unable to conclude that that exercise has sufficiently demonstrated that there is no further value in seeking to retaining the building as family accommodation in an area where other family houses persist and where specific policy aims affect the local market.
17. In support of the appeal, the appellant has made reference to appeal decisions elsewhere to draw distinctions to the marketing exercises undertaken. However, the specific detail and circumstances of those decisions are not before me and I am therefore unable to draw comparisons to those cases. Furthermore, although relevant, those decisions are not binding and do not limit the scope of judgement in individual case circumstances in other locations. Moreover, the existence of development elsewhere does not

represent an appropriate reason to find in favour of a proposal that would cause harm in this case, a case I have considered on its own merits.

18. I note that the building could be occupied by young professionals seeking that type of accommodation. However, there is little to suggest the property would be let for that purpose or proposed mechanism to achieve it. I acknowledge that the property could be let to a single household as an acceptable C3 use, and this could be on a short term basis. Whilst this may limit opportunities for those residents to invest in and engage to the benefit of the local community, it would not be in conflict with the aims of the policy. These matters are not therefore strong arguments in favour of the development.
19. Taking all of the above together, I find the potential use of the property as an HMO in an area identified as having existing high concentrations of HMOs would undermine the legitimate aim of seeking to rebalance housing and communities. It would conflict with Policy H6 of the CS as it seeks to strategically manage the distribution and concentration of HMOs in the interests of achieving sustainable, balanced and healthy communities and the loss of existing housing suitable for family occupation in areas of high concentrations of HMOs. It would also conflict with the National Planning Policy Framework (the Framework) as it seeks sustainable communities.

Living conditions

20. The use of the building by up to 6 unrelated individuals would contrast with typical behaviour profiles generally associated with properties used for single family unit accommodation, whether let or owner-occupied. Occupiers of HMOs tend to be limited to adults, and if utilised by students, of a limited age range. Compared to family living the greater independence of individuals going about their daily lives would generate higher levels of comings and goings both within and about the property, including those associated with visitors or deliveries, for example.
21. For student occupiers, activity is more likely to take place throughout the day and, like other adults, potentially extend late into the evening. Many students will attend late-night events (as will others) and this has significant propensity to lead to noise and disturbance in the street at unsociable hours. The effect would reduce the standard of living conditions in the immediate locality and potentially within neighbouring streets.
22. Although the area already has a high proportion of students and HMOs, those effects, and any associated cumulative effects, would be a retrograde to the aim of achieving high standards of living conditions for neighbouring occupiers.
23. I acknowledge the comments of a nearby residents in regard to the behaviour of residents of an adjacent property owned by the appellant. Whilst I have little doubt effective management would take place under the appellant's ownership, including measures to encourage sociable behaviours, there is little to ensure this would continue in the event that the property were sold on. It is therefore a matter of limited weight in favour of the proposed development.
24. For the above reasons, I find that the proposal would undermine the standards of living conditions in the locality. It would conflict with the aim of achieving balanced communities, improving the local environment and the predominant social conditions. This would conflict with Policies H6 and P10 of the CS, saved

Policy GP5 of the Leeds Unitary Development Plan (Review 2006) Volume 1: Written Statement and the Framework as they seek to ensure suitable standards of living conditions and healthy communities with a positive quality of life and wellbeing.

Other Matters

25. The proposal would contribute to a need for HMOs in the city as a low-cost housing option and is sited in a sustainable location. The accommodation is finished to a high standard and I acknowledge the appellant's undertaking to maintain it as such, including the external areas of the property.
26. I also note the increased pressure for student housing in the Hyde Park area due to some educational courses being relocated to the north of the city and that the development could contribute to restoring family housing elsewhere. This could result in an attendant reduction in travel need resulting in less air pollution.
27. Whilst I acknowledge those potential benefits, I find that they do not outweigh the harm I have identified above.

Conclusion

28. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR