



Appeal Decision

Site visit made on 8 February 2022

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2022

Appeal Ref: APP/M4510/W/21/3288632

79 Glenthorn Road, Newcastle Upon Tyne NE2 3HL

- 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 David Ratliff on behalf of Moorland Holding NE Ltd against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2021/1585/01/DET, dated 2 August 2021, was refused by notice dated 5 November 2021.
 - The development proposed is change of use from residential (Class C3) to 5 bed HMO (Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is a discrepancy between the description cited on the planning application form and that on both the decision notice and appeal form. The above heading reflects the latter, being an accurate description of the appeal proposal shown on the plans to which the Council's decision relates.

Main Issues

3. The main issues are the effect of the appeal proposal on the
 - housing mix of Glenthorn Road and the surrounding area
 - the character and appearance of the area, with particular regard to living conditions of local residents.

Reasons

Housing mix

4. The appeal property is a Victorian form of housing unique to Tyneside. It is located within a high density, predominantly residential part of Jesmond. Glenthorn Road is covered by an Article 4 Direction which brings the change of use from a single residential unit falling within the scope of Use Class C3 to a House in Multiple Occupation ("HMO") under planning control. The Council advises that this area has become very popular with students given its proximity to the city centre and higher education establishments. The boundary of this Direction was drawn primarily to reflect and manage the resulting high concentration of shared residential accommodation within the overall housing mix of this area.

5. The National Planning Policy Framework ("the Framework") recognises the need to address the housing needs of all sectors of society. However, the Council's Supplementary Planning Document: Maintaining Sustainable Communities 2011 ("the SPD") recognises that the outward migration of family households resulting from the concentration of HMOs in a small area is creating an unbalanced community to the detriment of the neighbourhood's sustainability.
6. The submitted evidence demonstrates that the appeal property offers generous living accommodation at upper floor level with access to a small rear yard. This accommodation offers reasonable outlook and privacy and outdoor useable private space that would also accommodate refuse and cycle storage. A residents parking permit scheme operates to the front. It is located within easy reach of a range of local services, facilities and employment areas by foot and public transport. The particular appeal property could be attractive for single household occupancy including a family.
7. I conclude that the proposed use would result in the loss of a unit of family housing for the street and wider Article 4 area. Moreover, the appellant's evidence does not adequately demonstrate that this property is no longer appealing or financially viable for C3 occupation to counter this conclusion.
8. The Council's policy approach does not place a moratorium on changes of use to HMOs. Rather, it provides policy criteria to judge each case on its individual merits and particular circumstances. However, the Council's adopted policy position, supplementary guidance and Article 4 Direction have been justified by evidence required of the relevant rigorous formal planning procedures. These demonstrate that this street and the wider area are sensitive to the further loss of residential properties falling within the scope of Use Class C3 to HMO accommodation in terms of maintaining a mixed but balanced housing stock.
9. In setting out their understanding of the concentration of HMOs within the street, the appellant has argued there is potential for two-bedroomed properties to be occupied as shared accommodation outside current licensing controls. In terms of concentrations, they also consider that a tipping point between Use Class C3 and C4 accommodation in this part of the area would not be reached through the appeal proposal.
10. However, no comprehensive, up to date evidence from a verified source has been provided by either of the main parties to confirm the current use of all properties in Glenthorn Road and the streets that bound it. The appellant's assumptions about the potential for shared occupancy of two- bedroomed units in the area is not sufficiently supported by robust evidence. Furthermore, I agree with the Council that the appellant's arguments regarding the tenure of units is not material in this instance as there is also the potential for those units to be occupied by those living as a single household. Overall, there is nothing before me to conclude that the street or the run of units within which the appeal property sits has reached a point which would render the retention of the existing C3 use here inappropriate in terms of housing mix.
11. For these reasons, I conclude that the particular appeal proposal would result in the unjustified reduction in the supply of residential accommodation suitable for family occupation. It would weaken the balance of the existing housing mix within Glenthorn Road and consequently the wider Article 4 area.

12. Although guidance, the Council's SPD provides a basis for HMO proposals to be assessed consistently in the context of the adopted development plan policies. As such, it is material to this appeal. I agree with the Council that the appeal property falls within the scope of this SPD. In view of the above findings, the appeal proposal conflicts with SC1 of the SPD which seeks amongst other things to control the loss of dwellings suitable for family occupation. This conflict weighs against the appeal proposal.
13. More crucially, the appeal proposal conflicts with Policy CS9 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 ("the CSUCP") as it would not maintain a range of house types and size in the area and prevent the loss of family homes.

Living conditions

14. Located in the middle section of Glenthorn Road, the appeal property forms part of a series of regimented terraced streets of similar properties. Limited evidence on the balance of types of residential uses in this area has been provided. However, advertisements displayed on some properties and the comings and goings of people signal that some HMO properties do exist alongside single household units within Glenthorn Road and the surrounding streets. Nonetheless, from my site inspection it is evident that this particular street currently retains much of its original single household character and appearance.
15. Externally, the physical condition of properties here varies, although overall this does not detract from the thriving urban residential character and appearance of Glenthorn Road. The intensity of occupation permissible under its current Class C3 use means that the lawful occupation of the appeal property is lower key in character than the existing HMO properties in the area, reinforcing the street's existing prevailing character.
16. The proposed HMO use will result in occupation by a significant number of residents living independently of one another. Such shared accommodation will give rise to greater overall variations in movement patterns and fewer linked trips than the existing situation. It will also attract a greater number of visitors associated with the unrelated occupiers. The circumstances of those taking up shared living opportunities here are more likely to mean that they will enjoy active social lives. Being more transient they will have less connection to their neighbourhoods than permanent residents. This can give rise to noise and disturbance through social activities, amplified music and the comings and goings with associated slamming of doors and taxi traffic.
17. The Council's SPD confirms that cumulatively these differentials with Class C3 occupation have resulted in tensions within the local community and on-going complaints to the Police and Council to control anti-social activities and improve the appearance of untidy properties. The submitted evidence demonstrates that a multi-agency initiative to resolve this is helping to safeguard residents' living conditions. However, my attention has been drawn to the uncertainties over the sustainability and continued effectiveness of this in the context of further increases in HMOs.
18. Overall, the submitted evidence indicates that the more transient occupation of HMO properties in this area continues to play a significant role in undermining the living conditions which any resident should reasonably expect. Moreover,

the Council's actions to manage further HMO provision signify that the character of this particular street is sensitive to the further loss of residential properties to HMO use in terms of the effects on the existing living conditions of residents. The evidence that is before me also supports residents' ongoing fear of crime and anti-social behaviour that could be exacerbated by the particular appeal proposal.

19. The appeal site is within close proximity to other existing sources of noise which are cited by the appellant. However, in the absence of any specific noise evidence, I conclude that the appeal proposal will give rise to a material increase in the numbers of comings and goings, and potential for noise disturbance. The appeal property's position within this street means that the proposed use would have a reasonable prospect of jarring with the likely dissimilar lifestyle traits of the remaining C3 households. This is because the different lifestyles at play would be more likely to extend this activity into unsocial hours when background noise in the area will be reduced and residents' reasonable expectations of tranquillity raised.
20. The resulting noise and disturbance would be particularly noticeable for neighbouring occupiers regardless of tenure, especially the occupants of lower Tyneside flats, where external noise will arise at street level from more intensive movements to and from the appeal site. Frequent movement on stairs and across floors from the more intense occupation of this upper Tyneside flat could exacerbate such disturbance for its downstairs neighbour. The tenure of neighbouring Use Class C3 properties does not reduce or justify these negative effects. Consequently, there is a reasonable prospect that the appeal proposal will cause material harm to the living conditions of existing residents.
21. As the maintenance of a high standard of amenity for occupiers of surrounding properties has not been clearly demonstrated the appeal proposal does not align with paragraph 130 of the Framework in this regard. Overall, the appeal proposal has significant scope to materially reduce the positive contribution that the appeal site currently makes to the prevailing domestic character of this particular street.
22. The physical external changes proposed would not adversely alter the traditional character and appearance of the appeal property. The submitted evidence is inconclusive in terms of the propensity for an HMO property to have an untidy appearance. However, it is likely that any future owner would need to undertake works to maintain the property regardless of the manner of occupation or tenure. These arguments are of neutral consequence to my assessment.
23. For the reasons given, the appeal proposal will materially change the existing character of this particular street. In turn, this would have an unacceptable adverse impact on the living conditions of local residents. This is contrary to SC1 of the SPD. I give moderate weight to this conflict.
24. More crucially, the appeal proposal conflicts with Policy CS9 of the CSUCP which seeks to prevent the over concentration of shared accommodation and loss of family units. The appeal proposal also conflicts with Policy CS14 of the CSUCP and Policy DM23 of the Newcastle upon Tyne Development and Allocations Plan 2015-2030 ("the DAP") insofar as these policies are concerned with safeguarding against harm to the living conditions of local residents.

Other Matters

25. The likely difficulty in securing the continued use of the property in the C3 Use Class, and the potential planning consequences that might flow from the property being left vacant for a lengthy period, has limited weight in favour of this appeal proposal.
26. The potential for further change in the make-up of the local population to influence the type of shops and services on offer in the locality is acknowledged. However, the evidence is inconclusive in this regard and in any event it would not outweigh the harm that I have found.
27. My attention has been drawn to other Decisions. However, they have not been shown to be sufficiently comparable in terms of location or housing mix to influence my assessment of the circumstances of this particular appeal proposal.
28. The appellant has sought to demonstrate that the appeal proposal accords with other relevant development plan policies. However, this conformity does not outweigh the harm and conflict with the development plan that I have found.

Conclusion

29. The appeal proposal would erode the availability of Class C3 accommodation in the area capable of accommodating a family and weaken the balance of the existing housing mix within this particular street. I have also found a reasonable prospect of changes to the character of the area which in turn will be harmful to living conditions of local residents. As a consequence, the appeal proposal conflicts with the development plan taken as a whole. There are no material considerations before me which outweigh this conflict. I therefore conclude that the appeal should be dismissed.

C Dillon

INSPECTOR