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# Appeal Decision

Site visit made on 18 March 2022

**by Lewis Condé BSc (Hons), MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Tuesday 19 April 2022**

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**Appeal Ref: APP/G3110/W/21/3280343**

**177 Headley Way, Headington, Oxford, Oxon OX3 7ST**

- 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 Raymond Bell against the decision of Oxford City Council.
  - The application Ref 21/00179/FUL, dated 19 January 2021, was refused by notice dated 14 May 2021.
  - The development proposed is described as 'Change of use to C4 (HMO)'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal site is covered by an Article 4 Direction. This restricts permitted development rights for the change of use of a single dwellinghouse in Use Class C3, to a small house in multiple occupation in Use Class C4. In addition, the Council has indicated that the building has been converted to a House in Multiple Occupation (HMO), the appeal scheme therefore seeks retrospective planning permission.

## Main Issues

3. The main issue is the effect of the appeal proposal on the mix and balance of housing in the area, with particular regard to the number of HMOs in the area.

## Reasons

4. No. 177 Headley Way is a link-detached property located in a predominantly residential area. It is set back from the road with parking to its frontage. Surrounding properties, are mainly semi-detached or linked detached.
5. Policy H6 of the Oxford Local Plan 2036 (2020) (Local Plan) seeks to restrict the development of HMOs where there is an overconcentration of such uses in order to maintain balanced communities. An overconcentration is identified by the policy as more than 20% of residential properties being in use as HMOs within 100m of street length. Beyond this level there is a presumption against granting permission for further changes of use of dwellinghouses to HMOs.
6. There is some dispute between the main parties over the number of HMOs within 100m of the appeal site. At the time the application was determined, the Council identified the level as being approximately 24%. Although more recent evidence suggests that some 29.2% of properties (12 properties) within 100m of the appeal site are either licensed or pending license HMOs.

7. However, the appellant suggests that many of the properties identified as HMOs within the vicinity of the appeal site should be discounted. Reasons include that many of the HMOs are not lawful due to them not benefiting from planning permission, that one is located over 100m from the appeal site, while another is being operated as a Bed and Breakfast (B&B). Taking this reasoning, the appellant contends that HMO concentration would remain significantly below the 20% threshold.
8. Specific details of how the 20% threshold under Policy H6 is to be applied can be found in Appendix 3.6 of the Local Plan. Notably, amongst other matters, it states '*In counting individual properties, the City Council will have regard to the number of houses, flats or buildings that are licensed HMOs, or for which a licence application is pending*'. The adopted policy position does not require planning permission to be in place for a property to be counted towards the threshold limit. On this basis, the Council's reasoning on concentration seems sound.
9. Even if one property (no. 182 Headley Way) was to be discounted due to it being on the cusp of the 100m distance, and another (no. 194 Headley Way) due to its operation as a B&B, the concentration of HMOs within 100m of the appeal site would still be in the region of 25%. Therefore, the community around the appeal property would already be imbalanced by the concentration of HMO uses, having regard to the threshold established in the Local Plan.
10. The appeal development exacerbates the existing overconcentration of HMOs, to the detriment of an acceptably balance mix of housing in the community. Consequently, the development is contrary to Policy H6 of the Oxford Local Plan 2036, the aims of which I have set out

### **Conclusion**

11. The appeal scheme conflicts with the development plan for the reasons I have given. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

*Lewis Condé*

INSPECTOR