



Appeal Decision

Site visit made on 6 April 2022

by Claire Megginson BA(hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2022

Appeal Ref: APP/C2741/W/21/3288894

52 Cromer Street, York YO30 6DL

- 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 Alan Morrow against the decision of City of York Council.
 - The application Ref 21/00933/FUL, dated 25 April 2021, was refused by notice dated 22 July 2021.
 - The development proposed is the conversion of a family dwelling into an HMO with 4 unrelated inhabitants (students).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a family dwelling into an HMO with 4 unrelated inhabitants (students) at 52 Cromer Street, York YO30 6DL in accordance with the terms of the application, Ref 21/00933/FUL, dated 25 April 2021, subject to the following condition
 1. The development hereby permitted relates to the following approved plans: 52 Cromer Street-Location Plan dated 13 Apr 2021 Plan Reference Number TQRQM21103202228790; Block Plan 52 Cromer Street dated 13 Apr 2021 Plan Reference Number TQRQM21103201738199; Site Plan 52 Cromer Street dated 13 Apr 2021 Plan Reference Number TQRQM21103201738199.

Procedural Matter

2. On the basis of the evidence before me, the appeal property has been used as a HMO since 2013 and therefore the appeal seeks permission retrospectively. I have dealt with the appeal on that basis.
3. The description of development as it is shown on the planning application form includes additional superfluous commentary on the status of the appeal building and the lack of structural changes amongst other things. I have omitted this since it does not identify the development to which the appeal relates, nor does it fundamentally change the development for which planning permission is sought.

Main Issues

4. The effect of the development on:
 - the concentration of HMOs in the area in the interests of mixed and balanced communities, and
 - the living conditions of neighbouring properties with particular regard to the cumulative impact of increased comings and goings.

Reasons

Mixed and balanced communities

5. The appeal property is located within a residential street of terraced houses of a character which would be likely to include, and be suitable for, family occupation. Policy H8 of the Publication Draft City of York Local Plan (2018 Draft Plan) and the Controlling the Concentration of HMOs Supplementary Planning Document (2012, amended 2014) (the SPD), in summary, seek to ensure that changes of use from dwelling houses to HMO will only be permitted where less than 20% of a neighbourhood area and less than 10% at street level are HMOs, as this is the point, for the council's purposes, that they consider at which a community can be said to tip from balanced to unbalanced.
6. The 2018 Draft Plan was submitted for examination 25 May 2018 and Phase 2 hearings are scheduled for May 2022. As this plan is yet to be adopted, it carries limited weight.
7. I note the disagreement between the Council and the appellant as to the number of properties at street level i.e., within a 100m radius considered to be HMO. Nevertheless, and in the worst-case scenario, when taking into account the cumulative impact of other HMO applications, the number of properties at the immediate street level would be 11.5%, which is in excess of the 10% as expressed in the policy.
8. The general aim of these policy thresholds is to avoid clustering of HMOs along streets and to avoid a loss of community cohesion and decline in local shops and services. In this case, the neighbourhood HMO figure would remain low at 4.7%, well below the 20% policy threshold and this would continue to support community cohesion and local shops and services. Whilst the 10% policy threshold has been exceeded, the appeal proposal has not given rise to unacceptable harm in terms of the concentration of HMOs at the street level and as such has not resulted in an unbalanced community overall.
9. The development has not therefore had a harmful effect on the concentration of HMOs in the interests of mixed and balanced communities. Whilst there is some conflict with Policy H8 (which carries limited weight) and the SPD, in that it would exceed the 10% threshold, it nevertheless complies with the overall thrust of the policy in that it does not result in an unbalanced community.

Living Conditions

10. The evidence suggests that as it is currently used, the appeal property does not cause any obvious harm to the living conditions of neighbours and that the change of use from a three-bed family home to a four bed HMO is acceptable in the location, as the comings and goings would be similar to that of a family dwelling with older children. However, the Councils' concern lies in the cumulative impact in a small area and a close knit, terraced street where the breaching of the 100m threshold has resulted in harm.
11. From my site visit I observed that the appeal property is well maintained and sits well within the wider street which appears to be predominantly family housing. The operation of the house as a HMO since 2013 has not attracted any objections or noise complaints. As the comings and goings associated with the appeal property are broadly similar to a family home, the issue of cumulative impact with other HMOs in the vicinity would not apply.

12. I can therefore only conclude that the development does not harm the living conditions of the occupiers of neighbouring properties in regard to the main issue. Whilst carrying limited weight, the appeal scheme accordingly complies with Policy H8, which seeks, amongst other things and in regard to this main issue, to ensure that HMO accommodation does not detrimentally impact upon residential amenity. I also find no conflict with the National Planning Policy Framework which seeks to protect residential amenity as part of section 130.

Other Matters

13. The Council's reason for refusal mentions the character of the area but no further substantive concerns thereon have been expressed in the evidence. During my site visit I observed that the appeal property is well maintained and the development has not included any external changes. Consequently, it is consistent with the character and appearance of the wider area. I am satisfied that there is therefore no harm in this regard.

Condition

14. The Council has not requested that any planning conditions be imposed as the proposal is retrospective. I have therefore allowed the appeal on the basis of the submitted plans as outlined in the condition above.

Conclusion

15. For the reasons given above, having considered the circumstances of the development plan as a whole and all other relevant matters, I conclude that the appeal should be allowed

C. Megginson

INSPECTOR