



Appeal Decision

Site visit made on 10 May 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th May 2022

Appeal Ref: APP/Y1110/W/21/3288883

4 Dinham Road, Exeter EX4 4EE

- 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 Grimshaw against the decision of Exeter City Council.
 - The application Ref 21/0940/FUL, dated 10 June 2021, was refused by notice dated 10 September 2021.
 - The development proposed is change of use from a dwelling house (C3) to a sui generis Large House in Multiple Occupancy.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a dwelling house (C3) to a sui generis Large House in Multiple Occupancy at 4 Dinham Road, Exeter EX4 4EE in accordance with the terms of the application, Ref 21/0940/FUL, dated 10 June 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - a) Whether the proposal would lead to an over concentration of Houses in Multiple Occupation, resulting in a harmful imbalance within the local community; and,
 - b) The effect of the development on the living conditions of occupants of neighbouring properties, with particular regard to issues of noise and on-street parking.

Reasons

Concentration of Houses in Multiple Occupation

3. The appeal site comprises a vacant four-storey dwelling at the northern end of a terrace of three similar buildings. The other two in the row appear to be divided into self-contained flats. The building lies in a street that is primarily residential, but also serves a primary school and a church. It is proposed to convert the building to a seven bedroomed House in Multiple Occupation (HiMO). As there would be minimal external changes, the proposal would have no impact on the character or appearance of the St David's Conservation Area.
4. The approach to proposals for new HiMOs is set out in Policy H5 of the Exeter Local Plan First Review 1995-2011 (the Local Plan), which was adopted in 2005. The supporting text recognises that HiMOs are an important source of affordable housing, but that the clustering of such premises should be avoided

to safeguard the residential environment. Consequently, Policy 5(b) states that the conversion of dwellings to HiMOs will be permitted, provided that the proposal will not create an over concentration of the use in any one area of the city, which would change the character of the neighbourhood or create an imbalance in the local community.

5. The appeal site lies close to the campus of Exeter University, in an area where an Article 4 Direction took effect in January 2012. Under the terms of this Direction, permitted development rights for the change of use from Class C3 dwellinghouses to Class C4 HiMOs have been removed. Consequently, planning permission is required for such proposals, allowing the Council greater control over the density of such uses. The Article 4 Direction does not, however, prohibit the grant of planning permission for development that accords with Policy H5 of the Local Plan.
6. In 2014, the Council adopted a Supplementary Planning Document entitled "Houses in Multiple Occupation (including Class C4 uses)" (the SPD). The purpose of the SPD was to clarify the implementation of Policy H5(b) of the Local Plan. The guidance in the SPD applies to applications for change of use from Class C3 dwellinghouses to HiMOs within the area covered by the Article 4 Direction. The SPD sets out that the proportion of HiMOs within the Article 4 area, at the time, amounted to an over-concentration under Policy H5(b) of the Local Plan. Consequently, the SPD seeks to resist all proposals for further HiMOs. As the appeal proposal would introduce a new HiMO into the area, it would be contrary to the SPD policy.
7. The legislation requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The glossary to the National Planning Policy Framework (the Framework) says that SPDs are capable of being a material consideration in planning decisions, but are not part of the development plan. Consequently, the proposal must be considered against the requirements of Policy H5 of the Local Plan, with appropriate weight afforded to the SPD as a material consideration.
8. Neither Policy H5, or its supporting text, provides any measure of the level at which an over concentration of HiMO uses would be reached, or the extent of the surrounding area that should be considered in assessing the issue. The SPD sought to clarify the Policy, but only went as far as indicating that the level of approximately 20% across the entire area, at that time, amounted to an over-concentration. The SPD stated that the policy was drafted on the basis of the data at May 2013, and that this data would be updated annually. No evidence has been provided to demonstrate that this has taken place, so I cannot safely conclude that the same situation applies nine years later.
9. The appellant's evidence, which has not been challenged, shows that there is only one other property in Dinham Road that is in use as a HiMO. The appeal proposal would result in only 11% of buildings in the road being HiMOs. Furthermore, only 37 properties in a much wider area to the north are in use as HiMOs. Whilst this is not expressed as a percentage, the area includes extensive areas of housing. Notably, the evidence shows that the nearest concentration of such uses is some distance to the northwest, in Haldon Road. Consequently, notwithstanding the May 2013 data for the wider Article 4 area,

the evidence indicates that there is not currently an over concentration of HiMOs in the immediate vicinity of the appeal site.

10. There have been significant changes in circumstances and national planning policy since the SPD was adopted. The appellant's unchallenged evidence demonstrates that the total number of students at Exeter University has risen by 24% since 2016/17. As a result, accommodation is required for approximately 5,000 additional students. Paragraph 62 of the Framework says that the type of housing needed for different groups in the community, including students, should be assessed, and reflected in planning policies. The Local Plan was adopted in 2005, and the SPD in 2013, so neither document contains policies based on an assessment of current, or even recently assessed, housing needs. In these circumstances, I give little weight to the guidance in the SPD which, based on data from 2013, imposes a blanket prohibition on new HiMOs over a wide area of the city.
11. The Council's delegated report indicates that it is evident from other streets within the Article 4 area that an over concentration of HiMOs is detrimental to housing availability for other household types, such as young families or seniors. However, no evidence has been provided to demonstrate that this is the case. In any event, I have concluded that there is not an over concentration of HiMOs in the immediate vicinity of the appeal site. Furthermore, there is no evidence that a large 7-bedroomed house, with limited outdoor amenity space, would better meet current local housing needs than the proposal for a HiMO.
12. Consequently, as the proposal lies in an area where there is not currently an over concentration of HiMOs, I conclude that the proposal would not result in an imbalance in the local community, so would accord with Policy H5 of the Local Plan. The proposal would also accord with Objective 3 of the Exeter City Council Core Strategy (2012), which aims to provide everyone in the community with the opportunity of living in a decent warm home of a suitable type, size, and tenure for their needs.

Living conditions

13. The appeal site lies at the end of Dinham Road, near to its junction with St Davids Hill. Although it is a no-through road, it serves a considerable number of residential properties in St Davids Terrace, Mount Dinham, and Dinham Crescent, as well as a church and a primary school. Furthermore, there is a pedestrian route via Rockside to Haldon Road. So, although it is predominantly residential in character, there is a significant level of vehicular and pedestrian activity along Dinham Road past the site. Any increase in activity and noise at the premises must be considered against this background.
14. It is contended that the use as a HiMO would result in night-time noise and disturbance that would adversely affect the living conditions enjoyed by the occupants of many houses and flats in the immediate vicinity. However, the present building already has a residential use. The existing floor plans show there are already seven bedrooms, although if used as a single dwelling it is likely that one of these would be a lounge. Nevertheless, the Council's delegated report notes that the existing property could be used by a large family containing more than seven people, remarking that the upper floor bedrooms are large, so could be occupied by two or more children. The

proposal for a seven bedroomed HiMO would not necessarily, therefore, result in an increase in occupancy.

15. The contention that a similar number of occupants may result in harmful noise impacts is based on anecdotal evidence from other streets in the Article 4 area. In these streets, the reported harmful impacts may arise from the cumulative impact of a concentration of similar uses. In this instance, the HiMO would be in an area where there are few others. Furthermore, the delegated report recognises that the level of noise would be dependent on the nature and behaviour of the occupants. This is something that could also be said of its continued use as a dwellinghouse. Consequently, there is no robust evidence before me to demonstrate that the residential use of the building as a HiMO would necessarily lead to an increase in noise, compared with a residential use by a similar number of occupants in a single dwellinghouse.
16. Dinham Road is wide enough to allow cars to be parked on one side. There are on-street spaces outside the appeal site for resident permit holders, with double yellow lines on the opposite side. At the time of my visit, in the middle of a midweek morning, there was only one parking space available. It is likely, therefore, that there is competition for spaces during the evenings and weekends. The residential use of the building by up to seven unrelated adults would, potentially, add to these pressures.
17. However, the proposal is put forward as being for student accommodation. The appellant's uncontested evidence demonstrates that students in a new HiMO would not be eligible for a parking permit, and the site does not lie in an area where University students or employees would be able to apply for one. Consequently, the proposal would not lead to an increase in permit-holders competing for the limited parking space within the street.
18. I therefore conclude that there is no cogent evidence to indicate that the proposal would have a harmful effect on the living conditions of occupants of neighbouring properties in relation to noise or on-street parking. Consequently, the development would accord with Policies H5 and DG4 of the Local Plan, which seek to ensure that residents can feel at ease within their homes and gardens, and that HiMOs do not cause an unacceptable reduction in the amenity of neighbouring occupiers, or result in on-street parking problems.

Other Matters

19. I have had regard to the representations received in response to the original application and the appeal. Some of these refer to the potential for an increase in anti-social behaviour because of the development. However, there is no evidence to indicate that this would be an inevitable consequence. I note that the Police Designing Out Crime Officer had no objection to the scheme.
20. Issues concerning the increase in waste, and the suitability of the cycle storage arrangements have also been raised. These matters can be suitably addressed through the imposition of planning conditions.

Conditions

21. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The Council

has suggested two further conditions relating to cycle parking and bin storage, which I have considered against the advice in the Planning Practice Guidance.

22. Cycle parking provision is required in accordance with Local Plan Policy T3. Whilst some details are shown on the submitted drawings, further information is necessary to ensure the facilities are convenient and secure. A condition requiring these additional details is necessary and reasonable.
23. The use of the building as a HiMO will have implications for the type and nature of waste and recycling storage facilities that will be required. No provision is shown on the drawings, so a condition is necessary and reasonable, in the interests of the character and appearance of the area, to require submission and approval of these details.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2137-ED-B1-XX-DR-A-PL-1001 - Site Location Plan; 2137-ED-B1-XX-DR-A-PL-1002 - Block Plan; 2137-ED-B1-XX-DR-A-PL-2001 - Existing Floor Plans; 2137-ED-B1-XX-DR-A-PL-2002 - Proposed Floor Plans; 2137-ED-B1-XX-DR-A-PL-3001 - Existing Elevations; 2137-ED-B1-XX-DR-A-PL-3002 - Proposed Elevations.
- 3) Prior to occupation of the Large House in Multiple Occupancy hereby permitted, secure cycle parking facilities shall be provided for residents in accordance with further details that shall previously have been submitted to, and approved in writing by, the local planning authority. Thereafter the approved cycle parking facilities shall be permanently retained, and always kept available for that purpose.
- 4) Prior to occupation of the Large House in Multiple Occupancy hereby permitted, details of bin (refuse and recycling) storage, including location, capacity, and access, shall be submitted to, and approved in writing, by the local planning authority. Thereafter the approved bin storage facilities shall be permanently retained, and always kept available for that purpose.