



Appeal Decision

Site visit made on 21 June 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20TH July 2022

Appeal Ref: APP/G3110/W/22/3291645

11 Masons Road, Headington, OXFORD OX3 8QL

- 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 Ms Nilufer Koralay against the decision of Oxford City Council.
 - The application Ref 21/02941/FUL, dated 30 October 2021, was refused by notice dated 20 December 2021.
 - The development proposed is the conversion of dwellinghouse (Use Class C3) to a small House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already been carried out and I understand that a licence has now been granted for the use of the property as an HMO. However, I have considered the appeal having regard to the development plan and other material planning considerations.

Main Issue

3. The main issue is the effect of the change of use upon the delivery of a balanced mix of households.

Reasons

4. The appeal property is a two-storey dwelling situated in a residential street of similar terraced properties. The building is being used as a 6 bedroomed House in Multiple Occupation (HMO) with bedrooms at ground, first and second floors, together with a communal living area on the ground floor. The size and configuration of the building and garden is such that it would be suitable for family accommodation.
5. The supporting text to policy H6 of the Oxford City Council Local Plan 2036 (LP) acknowledges that, whilst properties in HMO use play an important role in meeting housing needs, they are more suited to single occupants or couples and are less suitable as family accommodation. However, it also indicates concern that in some areas, concentrations of HMOs result in changes to the character of a local area, as a consequence of an increase in transient households, which can lead to an unbalanced community due to an increase in short-term tenants with less-established community ties.
6. Policy H6 sets out that planning permission for the change of use of a dwelling into an HMO, will only be granted where specific criteria are met, including that

the proportion of buildings used in full or part as an HMO within 100 metres of street length either side of the site does not exceed 20%.

7. While the wording of Policy H6 refers to buildings 'either side' which could imply that the measurement should be taken from the site boundary, a diagram in LP appendix 3.6 clearly indicates that the measurement is taken from the centre point of the frontage of the appeal property. There is no compelling reason before me to depart from the interpretation set out in the LP appendix. On this basis and from the evidence before me, there are a total of 44 buildings within the relevant threshold of 100m of the appeal property.
8. In accordance with the advice at appendix 3.6, the sum of 44 includes the 2 buildings at Wood Farm Primary School. However, the total excludes the 2 properties which are beyond the 100m threshold, 32 & 42 Masons Road. The new dwelling at 30A Masons Road, excluded previously by the council is also included.
9. There is also dispute between the parties with regards to the number of HMOs within the 100m distance, and specifically whether 35 Masons Road should be included. Whether or not information relating to the property should have been more readily available to the appellant, the advice at appendix 3.6 sets out that the calculation should include houses, flats or buildings that are licensed HMOs, or for which a licence application is pending, as well as properties for which reasonable evidence exists that it is in use as an HMO. At the time of the planning application the HMO licence for 35 Masons Road was pending, the licence has now been granted. While the licencing regime is separate to the planning process, whether or not 35 Masons Road is acceptable from a planning perspective is not a requirement for it to be included in the calculations as set out in appendix 3.6. The Article 4 Direction does not change acceptability from a planning perspective, merely triggering the need for permission.
10. It may well be that the existence of a licence, but no apparent planning permission, would not be comparable to a situation where one is authorised in planning terms, but where there is no licence. However, there is no substantive evidence that the use at No.35 would not comply with policy H6 with or without there being an HMO at the appeal site, or that there is any likelihood of that use ceasing. I conclude therefore that 35 Masons Road should be included in the calculation of properties in HMO use, in accordance with appendix 3.6 of the LP.
11. The proposal therefore results in a total of 9 of the 44 properties within 100 metres of the appeal site being in HMO use. This equates to 20.45% which exceeds the 20% threshold set out in LP policy H6. As such the proposal would conflict with the aims of policy H6 which seeks to avoid high concentrations of properties in HMO use, in order to deliver balanced communities.

Other Matters

12. The fact that the proposal would provide affordable accommodation for students and professionals in a sustainable location is not in dispute, however this would not outweigh the policy conflict I have identified above. That the property is already in use as an HMO and the proposal would not give rise to a net increase over and above the current situation is not a factor that would

weigh in favour of the proposal. Furthermore, this would not have a bearing on the calculation set out in appendix 3.6.

13. Although the proposal may not give rise to harm with regards to living conditions of the occupiers of neighbouring properties or changes to the external appearance of the existing building, these are neutral factors when considered in the planning balance.

Conclusion

14. I find that the proposal would lead to an over-proliferation of HMOs which would result in an imbalance in the mix of house types in the local area. The development would therefore conflict with the development plan, there is no compelling reason before me to depart from this established policy position. The appeal should therefore be dismissed.

Emma Worley

INSPECTOR