



Appeal Decision

Site visit made on 6 October 2022

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2022

Appeal Ref: APP/N4720/W/22/3301133

15 Ash View, Headingley, Leeds LS6 3JH

- 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 Laith Al-Saadi against the decision of Leeds City Council.
- The application Ref 22/01246/FU, dated 18 February 2022, was refused by notice dated 8 April 2022.
- The development proposed was originally described as retrospective change of use to C4 dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's evidence indicates that the property has been occupied as a C4 House in Multiple Occupation (HMO). I am therefore dealing with the application retrospectively. However, I have no substantive evidence that the HMO use is lawful. Moreover, within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether this is the case. Indeed, the application before me specifically seeks the change of use to a Use Class C4. I have therefore determined the appeal based on the application and plans submitted to the Council. As such, even though the application is submitted retrospectively, it is correct to assess the scheme against the relevant policies of the development plan that are relevant for new HMO's.
3. I have also been referred to the Headingley Neighbourhood Plan (NP) and I am advised that following its examination, work is being undertaken for the NP to be subject to a referendum. However, since the outcome of the referendum is unknown and thus it is unknown whether it will be made (adopted) I give it limited weight.

Main Issues

4. The main issues are the effect of occupying the property as a C4 HMO on the character of, and the living conditions within, the street and surrounding area, with particular regard to the balance and mix of housing.

Reasons

Balance and mix of housing

5. The appeal property is positioned at the end of a short terrace in a predominantly residential area. The Council consider that the area contains a high concentration of HMOs and has taken a series of measures to try and

tackle this, including the introduction of an Article 4 Direction in respect of HMOs (Class C4) and Policy H6 of the Council's Core Strategy (CS) (2019).

6. There is no substantive evidence before me to demonstrate that the situation has significantly changed since these measures were introduced. Policy H6 seeks to manage concentrations of HMOs, student accommodation and flat conversions. This is in the interests of avoiding harmful effects from high concentrations of HMOs and achieving balanced and healthy communities. In seeking to achieve this, Policy H6 explicitly seeks to avoid the loss of existing housing, that is suitable for family occupation in areas of existing high concentrations of HMOs.
7. I have no firm details before me to confirm when the host property was last in use as a single C3 dwellinghouse. However, as a property that was typical of family accommodation at the time of its construction, the layout of the property and room sizes remain capable of serving that original function. As such, even though it might not have been used as a family home recently, the existing building nonetheless contributes to the housing stock as a potential family home within the area.
8. The HMO at the appeal site has incrementally increased the number of HMOs in the area, at the expense of a potential family home. This exacerbates the existing over concentration of such properties and the imbalance in the mix of housing in the area.
9. I therefore find that there is a harmful effect from occupying the property as a C4 HMO to the character of the surrounding area, with particular reference to the balance and mix of housing. I therefore find conflict with the requirements of Policy H6 of the CS. This Policy accords with the provisions of the National Planning Policy Framework (the Framework) which, amongst other things, seeks sustainable communities.

Living conditions

10. Whether it is occupied by a family or as a HMO the potential for noise and disturbance exists. However, with five bedrooms shown on the plan, the level of activity from unrelated occupiers and associated visitors would, in my view, be significantly greater than that from a single household.
11. Such sources could be, for example, from people conversing inside and outside the property, increased comings and goings of occupants and visitors at different times of the day, multiple sources of music and doors frequently closing, which could be readily discernible from other nearby properties.
12. For any student occupiers, activity is likely to also extend late into the evening. This can result in noise and disturbance in the street at unsociable hours, particularly with the greater concentration of occupiers in a HMO, in contrast with a single household. More generally, the more transient nature of occupiers of HMO's means that occupiers do not contribute to the same community cohesion that permanent residents do.
13. The Council's Officer Report refers to various examples of crime and anti-social behavioural problems that it has attributed to a high concentration of HMO-accommodation within the area. From the evidence before me, I have no reason to dispute these findings.

14. In combination with the existing localised concentration of HMOs within the area, I am persuaded that this would likely lead to a discernible conflict between the lifestyles of HMO occupiers and local residents. The cumulative effect of which, reduces the quality of the environment and the standard of living conditions in the area.
15. I therefore conclude on this issue that there is a harmful effect from occupying the property as a C4 HMO to the living conditions within the street and surrounding area. I therefore find conflict with the requirements of Policies H6 and P10 of the CS, Policy GP5 of the Leeds Unitary Development Plan (2006) and paragraph 130 of the Framework. These, amongst other things, seek high standards of amenity for existing occupiers.

Other Matters

16. As explained in the preliminary matter's section, the scheme before me seeks permission for the HMO use and I must determine the appeal on this basis. Moreover, there are other avenues available if the appellant considers the use to be lawful. Therefore, the retrospective nature of the appeal, and thus, the harmful effects, does not outweigh my concerns in relation to the main issues, or justify a scheme that is contrary to the development plan in this instance.

Conclusion

17. For the reasons given above, the use conflicts with the development plan and there are no material considerations that outweigh this conflict. Therefore, the appeal is dismissed.

Mr R Walker

INSPECTOR