



Appeal Decision

Site visit made on 11 October 2022

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2022

Appeal Ref: APP/G3110/W/22/3296432

223 London Road, Headington, Oxford OX3 9JA

- 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 Noreen Sarwar against the decision of Oxford City Council.
 - The application Ref 20/00028/FUL, dated 6 January 2020, was refused by notice dated 18 November 2021.
 - The development proposed is for a change of use from C3 to C4.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect of the proposal on the concentration of Houses in Multiple Occupation (HMO) in the area.

Reasons

3. The appeal relates to a two-storey semi-detached dwelling located within an established residential area. Policy H6 of the Oxford Local Plan 2036¹ (Local Plan), states that the change of use of a dwelling to an HMO will only be granted, where amongst other things, the proportion of buildings used as an HMO within 100m of street length either side of a proposed HMO does not exceed 20%.
4. Having regard to the assessment criteria advocated by policy H6, there is no dispute between the main parties that 46 properties lie within 100m either side of the appeal site. However, the Council states that 10 of these properties are in HMO use in comparison with the 8 asserted by the appellant. The focus of contention relates to two properties in particular and whether or not they should be included as part of the calculation.
5. In this regard, and according to the appellant, neither no's 200 nor 222 London Road benefit from planning permission. However, Appendix 3.6 of the Local Plan states that regard should be had to the number of properties that are licensed HMOs. The Council's statement demonstrates that both properties benefit from an HMO license, a matter not disputed by the appellant. It would also appear that no. 222 has the benefit of planning permission.

¹Oxford City Council, Oxford Local Plan 2036, Adopted June 2020

6. However, even if that is not the case, and neither property has the benefit of planning permission, there is no evidence to suggest that enforcement action to prohibit their use is imminent. To my mind, evidence of HMO licenses in relation to these properties is a clear indication of their intended use. Moreover, there is no substantive evidence before me to suggest that these properties are not in use as HMOs irrespective of their planning status. Consequently, I have included both properties to calculate the proportion of HMOs in the area.
7. Therefore, for the foregoing reasons, I find that the development would result in the proportion of buildings used in full or part as a HMO, within 100 metres of street length either side of the appeal site, to be more than 20%, contrary to policy H6 of the Local Plan.
8. Whilst I note the appellant's comments that the proposal would not harm the existing character of the area, Paragraph 3.29 of the Local Plan explains that the harm to communities emanates from the transient nature of the tenants and lack of community ties which can adversely affect character. Consequently, even though the proposal is for one HMO unit, it would further and detrimentally affect the character of the area because of the resultant over concentration of HMOs, and the adverse effects described above.
9. The appellant has drawn my attention to two appeal decisions (ref - APP/G3110/C/21/3285946 and APP/G3110/C/21/3271351), citing these as comparable developments nearby. However, my decision largely turns on the evidence presented which is different from the evidence considered as part of those appeals. In this case, I have considered the Council's evidence of HMO licenses, which indicates that there would be an oversaturation of HMO uses in the area because of the proposal, contrary to policy H6. I am satisfied that my conclusions are justified, and the conclusions drawn in the referenced appeals do not warrant me reaching a different conclusion in the particular circumstances of the case.
10. I therefore conclude that the proposal would result in an over concentration of HMO's in the area. The proposal would be contrary to policy H6 of the Local Plan which, amongst other things, seeks to prevent an unbalanced mix of housing which due to the increase in transient tenants associated with HMO oversaturation, would be detrimental to creating sustainable communities and the character of the area.

Other Matters

11. I note the appellant's comments about the appeal site benefitting from sufficient parking provision, good transport links, provision of local services and compliance with other planning policies including those relating to space standards, but these considerations do not outweigh the harm identified above.
12. It is also put to me by the appellant that for more than 3 years the property has been used to accommodate homeless people. I appreciate that the type of housing proposed is often marketed at a more affordable price, and in this case, it would provide an opportunity for people without other accommodation to reside in an accessible location and secure local employment. However, these benefits are insufficient to outweigh the harm I have identified concerning the over saturation of HMOs in this area.

13. The appellant has referred me to case law² relating to the interpretation of planning policy. In reaching my decision, I am satisfied that I have interpreted the relevant development plan policy/policies objectively and in accordance with the natural and ordinary meaning of the words used.

Conclusion

14. For the reasons given above, the proposal would be contrary to the development plan as a whole. There are no material considerations, including the Framework, which indicate that I should take a decision otherwise than in accordance with the development plan in this case. Therefore, I conclude that the appeal should be dismissed.

S Crossen

INSPECTOR

² The Queen on the application of London Borough of Hillingdon v Mayor of London v Inland Limited, Clove Holdings Limited, MB Hillingdon Limited [2021] EWHC 3387 (Admin)