



Appeal Decision

Site visit made on 14 February 2023

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2023

Appeal Ref: APP/G3110/W/22/3307194

14 Havelock Road, Oxford OX4 3EP

- 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 Faiz Ahmad against the decision of Oxford City Council.
 - The application Ref 22/00020/FUL, dated 31 December 2021, was refused by notice dated 18 March 2022.
 - The development proposed is the change of Use from a family dwelling, Class C3, to HMO Class C4.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. Havelock Road is within an urban residential setting and largely consists of semi-detached properties of a comparable scale and design fronting the road with good spacing in between and similarly long rear garden spaces. The appeals site is a semi-detached period property set back behind a garden and driveway, with a long spacious rear garden.
4. Policy H6 of the Oxford Local Plan 2020 (LP) refers specifically to development proposals for the change of use to Houses of Multiple Occupation (HMOs). It sets out, amongst other matters, that development proposals should not lead to a saturation of intensified properties within the area and sets a threshold of 20% for intensified properties within a 100-metre of the street length either side of the appeal site. The evidence submitted with the appeal by the Council shows that 13 properties out of 41 are HMO licensed¹, resulting in 31% of the properties within 100m being used as an HMO.
5. The appellant has provided evidence to suggest that several of the properties on Havelock Road are HMO licensed, but do not benefit from planning permission or a Certificate of Lawfulness. The submitted evidence shows that at the time the planning application was originally submitted, Havelock Road had only 5 HMO licensed properties², but by September 2022 there were 8 properties on Havelock

¹ Including the appeal site

² No.s 4, 14, 18, 19, 21 Havelock Road

Road.³ Having regard to the properties in Havelock Road, the appellant has shown only two of the eight properties had planning permission or a lawful use.

6. I do sympathise with the appellant's position, but the LP clearly identifies that the number of HMO's accounted for would be based on the houses, flats or buildings that are licensed HMOs or have pending licenses⁴, rather than units that have both planning permission and an HMO licence. Furthermore, the 100m street length calculation would also include HMO properties located on Oxford Road and Lawrence Road and not just Havelock Road. As such, regardless of the planning status, those without planning permission and a HMO licence must still be included in the calculation. Any matters associated with a breach of planning control and any enforcement investigation into unauthorised HMO's would be outside the remit of the appeal, and it is a matter for the Council to pursue.
7. Consequently, based on the evidence before me, the proposed development would result in the proportion of buildings used in full or part as an HMO, within 100 metres of street length either side of the appeal site to be more than 20%, contrary to requirements of Policy H6 of the LP. Paragraph 3.29 of the LP sets out that high concentrations of HMO are resulting in changes to the character of the local area, as it would result in an unbalanced mix of housing to the detriment of the objective of creating sustainable communities. Consequently, even though the proposal is only for one HMO, it would further exacerbate the issues that are associated with high concentrations of HMOs, and detrimentally affect the character of the area.
8. Accordingly, the over concentration of HMO's would have an unacceptable impact on the character and appearance of the area. The proposal would be contrary to Policy H6 of the LP 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 changes the character of the area.

Other Matters

9. I acknowledge the appellant's frustration in respect of the property being used as an HMO for several years and the lack of correlation between HMO licences and planning permission.
10. However, based on the evidence before me, the historical use of the unit has been determined by the Council not to be lawful⁵, and does not represent a plausible fall-back use. Furthermore, how HMO licences are granted and shared between Council departments is outside the remit of the appeal and would not affect my conclusions on the main issues.
11. I note that the unit would be acceptable in respect of other considerations, such as living space standards and neighbour impacts. Although these are positives of the scheme, these matters are neutral and does not change the conflict with the Local Plan policy or mitigate the harm identified to the character of the area.

³ Nos 4, 8, 10, 14, 15, 18, 19, 21 Havelock Road

⁴ Appendix 3.6 of the Oxford Local Plan 2020

⁵ Council reference 21/02683/CEU

Conclusion

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

M. P. Howell

INSPECTOR