



Appeal Decision

Site visit made on 13 July 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Appeal Ref: APP/C2741/W/23/3316941

53 Melrosegate, York YO31 0SB

- 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 Dr William Powell against the decision of City of York Council.
 - The application Ref 22/01237/FUL, dated 10 June 2022, was refused by notice dated 22 August 2022.
 - The development proposed is described on the application form as change of use class C3 (dwellinghouse) to C4 HMO for up to 6 occupants. No other changes to the property or buildings is foreseen.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The emerging Local Plan has not yet been adopted, and so while it appears to be at an advanced stage of preparation, I cannot yet accord it full weight. When referring to the emerging Local Plan policies, I have referred to the City of York Local Plan Publication Draft 2018 (the PDLP) as referred to on the Council's decision notice.

Main Issues

3. The main issues are:
 - the effects of the proposal on the character of the surrounding area, including the balance and mix of housing;
 - the effects of the proposal on the living conditions of neighbouring residents with regard to general disturbance; and
 - whether appropriate provision can be made for vehicle parking.

Reasons

Character and Balance and Mix of Housing

4. The appeal site is a semi-detached two storey property with accommodation in the roof, located in an area comprising a mix of family dwellings and houses in multiple occupation (HMOs). The properties in the vicinity are a mix of semi-detached, detached and terraced two storey dwellings.
5. In April 2012 an Article 4 Direction came into force in the defined urban area of the city which removes permitted development rights to change a dwelling into a small HMO occupied by between three and six unrelated people (Class C4).

6. Alongside the Direction, the Council prepared a 2012 (amended 2014) Supplementary Planning Document: Controlling the Concentration of HMOs, (the SPD). The SPD recognises that HMOs make an important contribution to the housing offer. However, it also identifies that it is necessary to manage HMO development across the city to ensure that communities do not become unbalanced, including through the loss of family and starter housing. The SPD sets out that applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where less than 10% of properties within 100 metres of the site and less than 20% in the neighbourhood are in use as HMOs. Policy H8 of the PDLP includes the same limits.
7. The Council's evidence identifies that of the 107 properties within 100 metres of the appeal property, 21 are in HMO use, equating to 19.62%. The Council's calculations show that adding the additional HMO that would be created by the appeal proposal would increase this to 20.5%. These figures are not specifically contended by the appellant.
8. There is already a relatively large exceedance of the figure in Policy H8 of the PDLP and the SPD in terms of the concentration at street level, demonstrating that the concentration of HMOs in the immediate vicinity is high. When compared to the standards applied by the Council, the proposal, through introducing an additional HMO, would detrimentally intensify the concentration of HMOs within this specific area. It would therefore exacerbate the existing imbalance in the range and mix of housing within the immediate area in the way the SPD and Policy H8 of the PDLP seek to avoid. This would adversely affect community balance, which would, in turn, harm the character of the area.
9. There may well be other areas within the city where the concentration of HMOs is higher than the figures in the PDLP and SPD. However, I do not have details of these and so I cannot be sure that they are comparable with this proposal. In any case, I have determined this appeal proposal on its own planning merits, based on the evidence before me.
10. I therefore conclude that the proposal would have a significantly harmful effect on the mix and balance of housing in the local community, which would cause subsequent harm to the character of the surrounding area. Consequently, the proposal would be contrary to Policy H8 of the PDLP and the guidance in the SPD which is to manage the supply of HMO accommodation to avoid high concentrations of this use in an area. It would also be contrary to paragraph 130 a) of the National Planning Policy Framework (the Framework) which requires developments to function well and add to the overall quality of the area.

Living Conditions

11. The Council is concerned about the effect on the living conditions of neighbouring residents due to an increase in comings and goings within a semi-detached residential setting that would result from the use of the property as an HMO.
12. As a semi-detached property, no. 53 has a particularly close physical relationship with the adjoining property. The appeal property is quite a substantial sized dwelling capable of accommodating a relatively large family.

The internal configuration of the property is not markedly different to that of a dwelling used by a large family. I acknowledge that HMO occupation can be different to family occupation. It is generally more transient, with a different nature and pattern of activity. However, the disturbance from students or other unrelated adults' comings and goings would not be significantly different to that of a large family where there would potentially be journeys to work, school and social events.

13. I therefore conclude that the proposal would not cause harm to the living conditions of neighbouring residents due to general disturbance. In this respect, it would not conflict with the residential amenity requirements of Policy H8 of the PDLP or the SPD, or paragraph 130 f) of the Framework.

Parking Provision

14. The Council states that the parking standards in appendix E of the 2005 Development Control Local Plan (the DCLP) require that up to three independent off-road parking spaces should be provided for a five-bedroom HMO. The DCLP does not form part of the statutory development plan but is a material consideration in determining planning applications.
15. Many of the properties in the vicinity have some on-site parking provision although I did observe a small number of cars parked on the relatively wide grass verges. There is some demand for on-street parking within the vicinity of the property. However, there is little substantive evidence to demonstrate that highway safety, congestion or significant damage to footpaths or landscaping have occurred as a result of the current levels of on-street parking.
16. During my site visit I observed one car parked on the drive of the appeal property in front of the gates that close across it. In my judgement, it would be difficult to park an additional vehicle on the drive in front of the gates without overhanging the pavement. However, the appellant indicates that there would be space on the other side of the gates for additional cars to be parked, which coincides with what I saw during my site visit.
17. There are bus stops beside and opposite the property offering a relatively regular daytime service and there are some limited facilities within a reasonable walking distance. Occupiers would therefore not necessarily have to rely on a car for day-to-day requirements. Furthermore, in my experience of HMOs, occupants often have a low rate of car ownership.
18. On this basis, even if there were to be some increase in car ownership arising from occupiers of the property, this would not exacerbate on-street parking to the extent that there would be an unacceptable impact on highway safety.
19. The drive of the property is quite narrow, and it would likely be difficult to manoeuvre refuse bins passed vehicles parked there. Nevertheless, refuse collection is generally undertaken on a regular basis each week and it would not be unreasonable to consider that occupiers would be able to manage on-site parking to accommodate this. Vehicles parked on the drive would require the manoeuvring of bicycles to get from the rear of the property to the front. However, in my view, this would not result in a level of harm sufficient to warrant refusal of the proposal.
20. For the above reasons, I conclude that appropriate provision can be made for vehicle parking at the property. The Council has not referred to any specific

policy in the PDLP or DCLP in its reason for refusal relating to this main issue. Nevertheless, I find that there would be no conflict with the sustainable transport objectives in chapter 9 of the Framework, including where it states that safe and suitable access to the site should be achieved for all users and development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. There would also be no conflict with the guidance in the SPD in this respect.

Other Matters

21. I appreciate that it can be difficult to find good value accommodation and the benefits that a shared house can provide for students including for their health and wellbeing. However, this does not outweigh the harm that I have identified.

Conclusion

22. I have found that the proposal would not cause unacceptable harm to the living conditions of neighbouring residents with regard to general disturbance and would make appropriate provision for the parking of vehicles. However, the proposal would harm the mix and balance of housing in the local community, which would cause subsequent harm to the character of the surrounding area. As such, having taken account of all relevant material considerations, I conclude that the appeal should be dismissed.

F Wilkinson BSc (Hons), MRTPI

INSPECTOR