



Appeal Decision

Site visit made on 9 January 2024

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2024

Appeal Ref: APP/M2372/W/23/3326631

126 Abraham Street, Blackburn BB2 3PJ

- 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 Mrs F N Hussain against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/23/0171, dated 20 March 2023, was refused by notice dated 22 May 2023.
 - The development proposed is change of use from a single residential dwelling (C3) to a house in multiple occupation for 6 No. residents.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to making its decision, the Council adopted the new Blackburn with Darwen Local Plan 2021-2037 (Local Plan) on 25 January 2024. This replaces the Blackburn with Darwen Local Plan Part 2: Site Allocations and Development Management Policies 2015 (SADMP) and the policies referred to in the reasons for refusal are no longer part of the development plan. The policies of the new Local Plan now carry full weight. Accordingly, I have determined the appeal against the relevant policies of the new Local Plan. Both parties have had the opportunity to comment on the relevant policies through the appeal process.
3. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.
4. The site has been subject to a recent appeal decision¹ which was allowed for a house in multiple occupation (HMO) for 4 residents. The decision included a condition restricting the number of residents to no more than 4. At the time of my site visit, while I saw works to renovate the property and sub-divide rooms had commenced, the property was unoccupied and I have no compelling evidence before me to suggest that this permission has been implemented. However, it remains extant. The description above confirms that permission is now sought to change the use of a single dwelling to a HMO for 6 residents and I have determined the appeal on that basis. While I have taken the previous

¹ Appeal Ref: APP/M2372/W/22/3296993

Inspector's findings into account in my decision, I have reached my own findings based on the circumstances of the present case.

5. For the avoidance of doubt my decision relates to the proposals shown on the submitted plans. The fact that building works were in progress does not affect my decision.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character of the area with particular reference to the balance and mix of housing including the supply of family-sized dwellings; and,
- Whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to internal living standards.

Reasons

Character and family dwellings

7. The appeal site is a traditional mid-terraced property with 4 bedrooms. The property directly abuts the pavement and has a modest sized rear yard. The area is predominantly residential, comprising mainly of rows of two storey terraced housing.
8. Policy DM06 of the Local Plan states that proposals for new HMO will not be permitted in any part of the Borough during the plan period, including that for the conversion of existing dwellings. The reason for this restriction, which is set out in the pre-amble to Policy DM06, is that the Council consider there is an over-provision of such accommodation in the borough which results in fundamental changes to the character of the local area and housing choice is skewed away from family accommodation.
9. To support this policy, an Article 4 (1) Direction was introduced by the Council across urban areas of the Borough in August 2023. This removes the permitted development right under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to the change of use of a dwellinghouse (Use Class C3) to an HMO (Use Class C4).
10. The supporting case for the Article 4 as set out in Appendix 1 of the Council's statement recognises that HMO and their concentration can be associated with, amongst other things, the loss of single family dwellinghouses. It also explains that the borough has high proportions of poor quality housing stock which can be bought cheaply, and which is located in the most deprived and urban areas of the borough that, once used as HMO, contribute to a perpetually negative cycle of overcrowding, noise, anti-social behaviour and lack of community cohesion.
11. Although the appeal property would retain the appearance of a modest family dwelling when viewed from the street, the proposal would increase the bedrooms at the property from 4 to 6. While the property could be occupied by different family make-ups, including young adults, as occupiers having less interdependency and therefore a greater propensity for independent activity, the use by 6 unrelated occupiers is likely to create greater levels of coming and

going both within and about the property. This would include that associated with visitors to those individuals.

12. It would result in an intensification of the use of the building through sub-division and conversion to a 6 person HMO. Given the appellant's evidence regarding housing statistics in Abraham Street and the predominance of single or two person households, the proposed use would be extremely noticeable in this mid-terraced property.
13. No substantive evidence has been presented to me to indicate that the 4 bedroom property would not be suitable as a family-sized dwelling. Although the rear outdoor amenity space at the property is modest and there is no off-street parking, this is not unusual for households in terraced housing and could provide an affordable option for family accommodation. Indeed, I observed at my site visit that there were few terraced properties in the area that had dormers, and therefore few larger terraced properties for sizeable families that may require this type of affordable accommodation. Even though there may be few larger households in the street, given the evidence presented on the outcomes of HMO, in the context of this site and the proposed number of individual occupiers, I find the proposal would harm the character of the prevailing single occupancy residential area.
14. While the previous Inspector found that the use of the appeal property as an HMO would not result in harm to the character of the area or the mix of housing including the supply of family-sized dwellings, that decision was determined on the basis of fewer occupants and against a different development plan.
15. I recognise that HMO are an important source of private sector housing for those on low incomes and those seeking temporary accommodation. I also acknowledge that there is not a high concentration of HMO in the area and the Council have not refused the application on the basis of the effect on the living conditions of neighbouring residents. Nevertheless, as the proposal consists of a change of use to an HMO, it would result in the loss of family housing. Therefore, even if there are no other HMO in the area, the proposal would conflict with Policy DM06.
16. Consequently, the proposal would result in harm to the character of the surrounding area, with particular reference to the balance and mix of housing including the supply of family-sized dwellings. It would conflict with Policy DM02 and Policy DM06 of the Local Plan which together, amongst other things, seek to restrict HMO in the Borough and development that would not contribute positively to the character of the area. It would also conflict with paragraph 135 of the Framework, where it requires development to add to the overall quality of the area.

Living conditions for future occupiers

17. The Council's concerns relate to the internal size of rooms for future occupiers of the appeal property. Policy DM03 of the Local Plan states that all new dwellings must comply with the nationally described space standards² (NDSS). Criterion 7 of the policy qualifies that this applies to dwellings created through

² Technical housing standards – nationally described space standard (DCLG, 2015)

conversion or subdivision. The NDSS provide a clear guide to ensure adequate space is provided for occupiers in residential accommodation.

18. Although some measurements are set out in the appellant's statement, no detailed plans are before me to indicate the proposed width or floor to ceiling height of each room in the appeal property, as such I cannot be certain that the proposal would comply with the NDSS.
19. The NDSS requires that a dwelling with two or more bedspaces has at least one double (or twin) bedroom and that at least one double (or twin) bedroom has a minimum floor area of 11.5 sqm and minimum width of 2.75m. The proposal would include a double bedroom. However, even if the floor area of the double bedroom would be slightly larger than that stated on the plan when measured from the scaled drawing, the width of the double room at 2.15m would not comply with the NDSS.
20. In terms of gross internal floor area (GFA) and built-in storage, the NDSS does not set out a standard for either a 2 storey or a 3 storey, 6-bedroom property for 6 persons. The appellant contends that the proposal would comply with the NDSS standard for a 2 storey, 5-bedroom property for 6 persons of 110 sqm GFA and 3.5 sqm of storage. However, the appeal property would include 2 rooms in the roofspace, therefore accommodation would be provided over three floors.
21. The NDSS for a 3 storey 6-bedroom property, albeit for 7 persons, would require a minimum of 129 sqm GFA and 4 sqm of built-in storage space. Even if the standard for a 3 storey, 5-bedroom property for 6 persons was applied, it would require a minimum GFA of 116 sqm. Therefore, on the basis of the information before me, the proposal would not comply with the NDSS.
22. Furthermore, I observed at my site visit that, although the floor area of the lounge/dining room would be a reasonable size, the kitchen would be extremely small for 6 people with very limited space for more than 3 or 4 people to store, prepare and cook a meal at any one time. As a consequence of the constrained size of the kitchen and the subdivision of the property to provide 6 bedrooms for independent occupants, the scheme would result in a poor standard of accommodation. The proposed HMO would feel cramped and would not provide adequate space for occupiers' day-to-day needs. The concerns expressed by the Council's Housing Standards team reinforce my view.
23. Even if the information provided by the appellant was taken into account in relation to the size of rooms, the overall GFA of the property and width of the double bedroom would not comply with the NDSS and the kitchen would be extremely cramped for 6 persons. Consequently, the proposal would not provide acceptable living conditions for future occupiers, with particular regard to internal living standards.
24. For the above reasons, the proposal would conflict with Policies DM02 and DM03 of the Local Plan which together, amongst other things, seek compliance with NDSS and a satisfactory level of amenity for future occupants. The proposal would also conflict with guidance at paragraph 135 of the Framework which requires developments to provide a high standard of amenity.

Other Matters

25. As set out above, there is an extant permission for a HMO at the appeal site for 4 residents. It is the appellant's intention to carry out such a conversion if the appeal were to be dismissed, and consequently it is their fallback position. The fallback position, although smaller, would achieve a similar purpose to the appeal scheme in providing a HMO at the appeal site. Although the dwelling is currently unoccupied, from observations at my site visit and the information before me, I am satisfied that there is a real prospect that the fallback position would be implemented should the appeal be dismissed.
26. However, for significant weight to be afforded to a fallback position, there needs not only to be a reasonable prospect of it being carried out, but it would also need to be more harmful than what would be allowed by the scheme for which permission is sought. As a result, an element of planning judgement is also involved in that assessment process.
27. Whilst the fallback permission is a similar scheme to that before me and both schemes would result in the loss of a family house, it would result in two fewer future residents. Consequently, the comings and goings associated with 4 residents would be less than that associated with 6 residents and there would be more internal space in the property for each resident. While the increase to harm associated with the appeal proposal would be relatively limited in comparison to the fallback scheme, it would nevertheless still be an increase. Therefore, as the fallback position would result in less harm than the scheme before me, it does not justify allowing this appeal.
28. It has been put to me that Policy DM06 of the Local Plan is not relevant as it relates to the creation of new HMO and since there is already permission for a HMO at the site, the proposal would not be a new HMO. However, the fallback scheme has not been implemented and the property remains a single dwelling. As such, the proposal before me would be for a change of use of the existing dwelling to a new HMO, as set out in the application.
29. I have considered all other matters raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.

Planning Balance and Conclusion

30. The Government's objective is to significantly boost the supply of housing and the proposal would result in a 6 bedroom HMO in an urban area. It would also lead to a small and time-limited economic benefit during the construction phase, and some social and economic benefits associated with the contribution and expenditure that individual residents of the HMO would make towards local services and facilities in the area. Given the scale of the proposal, and that it would replace an existing dwelling, these matters attract limited weight.
31. Conversely, the proposal would result in harm to the character of the area including the supply of family-sized dwellings, and the living conditions of future occupiers, in conflict with the development plan. These matters cumulatively attract significant weight and outweigh the benefits associated with the proposed development.
32. The proposed development therefore conflicts with the development plan taken as a whole. There are no other material considerations of sufficient weight

which indicate that a decision should be made other than in accordance with the development plan.

33. The appeal is therefore dismissed.

A Veervers

INSPECTOR