



Appeal Decision

Site visit made on 18 December 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/C2741/W/23/3326387

178A Hull Road, York YO10 3LF

- 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 Nicholas Read against the decision of City of York Council.
 - The application Ref 22/00609/FUL, dated 17 March 2022, was refused by notice dated 23 January 2023.
 - The development proposed is 2 storey side extension and single storey rear extension to existing House of Multiple Occupation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form was as set out above. However, during the course of the planning application, amended plans were provided by the appellant removing the proposed single storey rear extension and a dormer window from the scheme. Although the description of the development was not also amended, the Council has clarified that this is the scheme upon which it made its decision, and it has also been clarified by the appellant that this is the scheme that they wish to be considered. As it appears that interested parties were afforded opportunity to comment on these revisions, I consider that no party would be prejudiced by me considering the amended scheme.
3. With this in mind, I have determined the appeal on the basis that permission is sought for a change of use of small house in multiple occupation (HMO) (Use Class C4) to a large 7no. bedroom HMO, with two storey side extension.
4. The Council has made reference to the Publication Draft City of York Plan 2018 ('the ELP'). I understand that this is not yet adopted, and I am unaware of the extent of any unresolved objections. On the basis of the advice set out at Paragraph 48 of the National Planning Policy Framework ('the Framework'), I therefore afford these policies limited weight.
5. In reaching this decision, I have had regard to the revised version of the Framework that was published on 20 December 2023, but as it does not involve changes to national policy affecting the proposal, I have not sought the parties' comments upon it.

Main Issues

6. The main issue is the effect of the proposal upon the living conditions of the occupiers of nearby properties, with particular regard to noise and disturbance.

Reasons

7. 178A Hull Road ('178A') is a detached house which is located within the grounds of 178 Hull Road ('178'), which I understand is also an HMO under the control of the appellant. The provided plans indicate that 178A provides accommodation for five occupants, and the provided plans indicate that this would increase to 7 occupants as a result of the proposal. Although the proposal would not increase the number of HMOs in the area and would therefore have a neutral effect on the balance of housing stock, it would further intensify the existing use.
8. Whilst there have been no complaints to the Council which have triggered statutory noise nuisance, the representations of interested parties received both in relation to the planning application and this appeal, indicate that occupants of nearby properties have experienced problems over a number of years, associated with the use of the appeal property, as well as 178, as HMOs occupied by students.
9. Concerns raised include large gatherings at the properties which extend into the early hours of the morning. The evidence indicates that the concerns of interested parties are such that they have previously been moved to raise the management of 178 with both the Council and the University of York. Interested Parties have also raised issues in relation to the management of waste and car parking at the property.
10. 178 lies outside of the appeal site and would not be directly affected by the proposal. However, it is apparent that adjoining occupiers perceive the two properties as forming a concentration of student accommodation. Given the close relationship between the properties and the fact they are both under the control of the appellant, this is understandable. Whilst some of the concerns raised by interested parties in relation to noise and disturbance appear to be related to 178 rather than 178A itself, it is clear that there is concern over the cumulative effects of two HMOs being effectively co-located.
11. 178A is located such that it has a particularly close relationship with nearby residential properties, particularly those on Windmill Lane which are located close to the shared boundary. Given this proximity and the aforementioned existing cumulative effects of HMO occupation, even taking account of the fact that the proposed extension would be located on the eastern side of the appeal property, any noise generated by large gatherings at the appeal property would be more likely to cause disturbance to the occupiers of neighbouring properties, than would be the case otherwise. Previous disturbances have extended into the early hours of the morning, and I consider that this can be particularly harmful as it can disturb sleep.
12. Although the level of disturbance could change depending on the nature of any occupants, this is not within the control of the planning system. Given the persistence of existing issues over a period of several years, there is no evidence before me which leads me to conclude that increasing the level of occupancy of the property would not further exacerbate these issues both with

regard to 178A itself, and more cumulatively, leading to increased and unacceptable noise and disturbance.

13. Furthermore, I cannot be satisfied that the appellant becoming part of the Council's accreditation scheme would represent an effective means of ensuring that further problems do not occur in the future, as a result of the increased occupancy of the property.
14. For the reasons set out above, the proposal would harm the living conditions of occupiers of nearby properties, with particular regard to noise and disturbance. It would therefore conflict with the National Planning Policy Framework ('the Framework') which requires new developments to create places with a high standard of amenity for existing users, and that planning decisions should prevent existing development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution.
15. It would also be contrary to ELP Policy D11. Amongst other factors, this policy states that extensions and alterations to existing buildings should protect the amenity of current and neighbouring occupiers.
16. The Council has also referred to conflict with ELP Policy H8. However, this policy relates to proposals to convert dwellings to HMOs, and makes no reference to the expansion of existing HMOs. It is not, therefore, determinative in my decision making.

Other Matters

17. The Council considered the scale and design of the proposed extension to be acceptable, I have no reason to disagree.
18. I understand that the current proposal is the latest in a number of proposed schemes at the appeal site, and I appreciate that the appellant has sought to work positively with the Council in order to arrive at an acceptable proposal and upgrade the property. However, I am required to determine the appeal on the merits of the scheme which is before me now.
19. It has also been highlighted that other, similar developments have been approved elsewhere on the Hull Road corridor. However, I have been provided with only very limited details of specific examples and the circumstances of their approval. Therefore, I cannot be sure of their nature, or whether they would be comparable to the proposal before me. Accordingly, I afford this factor little weight in reaching my decision.

Planning Balance and Conclusion

20. I have found that the proposal would lead to harm to the living conditions of nearby residential properties with particular regard to noise and disturbance. This harm and conflict with the Framework would be significant and I afford it significant weight. The proposal would also conflict with a policy in the ELP, however, as this document is not yet adopted, I afford this conflict limited weight.
21. As there are no development plan policies, I am taken to paragraph 11(d) of the Framework. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits of the scheme, when assessed against the policies in the Framework taken as a whole.

22. I acknowledge that the proposal would increase student accommodation in York, in a sustainable urban location, and where it is stated that there is an unmet need for student accommodation and that it would reduce pressure on other dwellings to be converted to HMOs. However, there is no substantive evidence before me to demonstrate the extent of any need for student accommodation, should it exist, or whether there are other proposals or strategies to manage rising student numbers such as through purpose-built student accommodation or Article 4 directions. Accordingly, I afford this factor minor weight as a benefit of the proposal.
23. Weighing against this, the proposal would conflict with the Framework insofar as it requires development to contribute to the local environment by preventing existing development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. This adverse impact would significantly and demonstrably outweigh the minor benefits of the scheme. Consequently, the presumption in favour of sustainable development does not apply in this case.
24. For the reasons given above, having considered the approach in the Framework, and all other material considerations, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR