



Appeal Decision

Site visit made on 26 March 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2024

Appeal Ref: APP/C2741/W/23/3329172

46 Cromer Street, York YO30 6DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Matt Waugh against the decision of City of York Council.
 - The application Ref is 23/00689/FUL.
 - The development proposed is dormer loft conversion with internal alterations, existing Class C3 dwellinghouses to proposed Class C4 houses in multiple occupation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the appeal proposal is considered. References in the decision are to the December 2023 Framework.
3. The emerging Local Plan has not yet been adopted, and so while it appears to be at an advanced stage of preparation, I cannot accord it full weight. 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 Issue

4. The main issue is whether the proposed development is suitable, having regard to the approach to the provision of Houses in Multiple Occupation (HMOs).

Reasons

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 therefore 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. These figures are described in

the SPD as the point at which a community can tip from balanced to unbalanced. Policy H8 of the PDLP includes the same limits and requirements.

7. There is no dispute between the main parties that the figure for the neighbourhood level is less than 20% and would remain so with the appeal proposal. At the street level, the appellant contends that only those HMOs with planning permission should be included when establishing the density of HMOs. On this basis, the appellant calculates that the number of HMOs at the street level would be less than 10% even with the appeal proposal. However, the Council highlights that the Article 4 Direction was not applied retrospectively, and so its database will include older HMOs which did not require planning permission. On this basis, I would agree with the Council that this does not mean that such properties are not HMOs, especially having regard to the definition of relevant properties in part ii of Policy H8 and in the SPD.
8. Using the Council figure, of the 137 properties within 100 metres of the appeal property, 17 are in HMO use, equating to 12.41%. The Council's calculations show that adding the additional HMO that would be created by the appeal proposal would increase this to 13.14% which exceeds the 10% in Policy H8 of the PDLP and the SPD.
9. It may be the case that the wider area can accommodate greater numbers of HMO properties given that at neighbourhood level, numbers are well below the identified threshold. I also appreciate that there are some services and facilities within a comfortable walking distance of the property, and it is reasonably close to York St John University, York Hospital and the Nestle factory. However, the use of a threshold at street level is an important tool in the Council's efforts to prevent the creation of large concentrations of HMOs within neighbourhoods, and the incremental erosion of the character of residential areas.
10. The proposal would detrimentally intensify the existing concentration of HMOs within this specific area and based on the street level threshold in the SPD and Policy H8, would exacerbate an existing imbalance in the range and mix of housing within the immediate area. This would be contrary to the aims of Policy H8 and the SPD of preventing the creation of large concentrations of HMOs, and the incremental erosion of the character of residential areas.
11. There may be little increase in the number of occupants over that of a typical family home of this size. However, HMO occupation can be different to family occupation. Occupiers of an HMO are more likely to lead independent lives from one another. The activity generated by several persons living independent lives, with separate routines, and their attendant comings and goings along with those of their visitors, would lead to a level of activity that would be more marked and intensive than that which could reasonably be expected to be associated with a single household. This activity, within part of the street where there are already several existing HMOs, and where properties have a close physical relationship with each other, would have a detrimental effect on the living conditions of neighbouring residents.
12. Taken alone, a single five person HMO might only cause a limited degree of harm to the living conditions of nearby residents. However, there is a cumulative impact arising from the number of HMOs in the immediate area. Every additional HMO has the potential to exacerbate this situation and the impact on neighbouring residents. Furthermore, the matter of harm to living conditions is intrinsically linked to those considerations that arise from the

Council's aim to create balanced communities and to regulate the numbers of HMOs that are present.

13. The use of the property as an HMO would compound the concentration of HMOs in this area. This 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 and a cumulative increase in comings and goings that would harm the living conditions of neighbouring residents. I therefore conclude that the proposed development would not be suitable, having regard to the approach to the provision of HMOs.
14. Consequently, the proposal would be contrary to Policy H8 of the PDLP and the guidance in the SPD, the main aims of which have been summarised above. It would also be contrary to paragraph 135 a) and f) of the Framework which states that planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

15. There would be no change to the front of the property. The proposed rear dormer would be acceptable. Bicycle and waste storage would be provided to the rear. The property appears to be well-maintained, and there is nothing before me to suggest that it would not remain as such. However, a lack of harm is effectively neutral in the planning balance.
16. The appellant has identified an appeal decision¹ for an HMO at 52 Cromer Street which was allowed despite the 10% policy threshold being exceeded. That application was retrospective, with the property having been in use as a four-bedroom HMO since 2013. This current appeal proposal would represent a further increase in HMOs at the street level, increasing from 11.5% at the time of the appeal decision for no. 52. I cannot therefore draw any direct comparison with the proposal that would weigh in its favour
17. The appellant has drawn attention to a 2021 news article concerning York students who had been accommodated in Hull due to the lack of accommodation. Notwithstanding whether there is a need for additional student accommodation across the city, the article does not sufficiently demonstrate that a mix with more than 10% HMOs at street level would be appropriate.
18. None of the other matters raised would alter or outweigh my conclusion on the proposal.

Conclusion

19. Having taken account of all relevant material considerations, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR

¹ Reference APP/C2741/W/21/3288894