



Appeal Decision

Site visit made on 7 May 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/N4720/W/24/3337436

16 Salisbury View, Armley, Leeds LS12 2AU

- 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 Watts & Co against the decision of Leeds City Council.
 - The application Ref is 23/04614/FU.
 - The development proposed is change of use from C3 dwellinghouse to C4 House in Multiple Occupation with enlargement of basement window and lightwell to front; dormer window to rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - The living conditions of the future occupiers of the proposed House in Multiple Occupation (HMO) with particular reference to outlook and natural light within the basement rooms, private amenity provision, noise and disturbance;
 - The character of, and the living conditions within, the surrounding area, with particular regard to the balance and mix of housing; and
 - The living conditions of the existing occupiers of the neighbouring properties with particular reference to noise and disturbance.

Reasons

Living conditions – future occupiers

3. Two bedrooms would be provided within the basement. No firm details have been provided regarding the extent of natural light penetration in the rooms. The rooms would be served by a modest sized window each, and in the case of the rear room, a back door.
4. Reference has been given to a 25-degree rule from the Council's draft HMO, Purpose-Built Student Accommodation and Co-Living Amenity Standards Supplementary Planning Document (SPD). However, whilst an angle is shown on the front window plan, the location of the 25-degree line from the windows is not illustrated. Moreover, no angle is shown on the rear window or glazed door that considers the stairwell wall, the barrier on top of the stairwell and the covered cycle store.

5. The windows would be mostly below ground level restricting both outlook and natural light. Given the size of the rooms, the modest size of the windows and their position relative to the ground level, retaining walls, and barrier above, the rooms would not have good access to natural light and outlook.
6. The proposed HMO would have a modest sized living room and a small external amenity space for the number of occupiers sought. This would, in my view, increase the likelihood of individuals spending more time in their rooms to eat and relax. This increases the importance of the bedrooms in the scheme. Moreover, the position of the communal rooms and entrance corridor on the ground floor, would result in some noise and disturbance to occupiers of the basement rooms below, from the comings and goings and activity within the shared spaces. Although not determinative in isolation, these matters, combined with the comparatively low ceiling height in the basement, adds to my concerns regarding the living conditions associated with these basement rooms. Taken together, with the likely levels of natural light and outlook, the living conditions for future occupiers would not be acceptable.
7. The appellant has referred me to the space standards within the draft SPD, indicating that the kitchen and living room comply with its size requirements. The appellant says that the living room is 15m². However, the proposed plans stipulate that this would be reduced to 12m². Set against the SPD's requirements for 16m² for six people, it would be smaller than expected. I do not give full weight to the draft SPD as it could be subject to change. Nonetheless, this shortfall reinforces my concerns regarding the modest size of the living room for the number of occupiers proposed and the likelihood that this would result in occupiers spending more time in their bedrooms.
8. It is put to me that adults in HMOs do not require private external amenity space or depend on outlook from rooms. However, there is no substantive evidence of this. In my view, whilst the needs and function would differ from a typical family household, the small amount of external amenity space that would be provided due to the cycle and bin storage would not result in a high quality space for the number of occupiers in the property. Whilst there are other leisure and recreation facilities in the area, these do not serve the same function as having a private external space to sit at the property.
9. My attention has been drawn to other properties where basements have been converted. I do not have the full details of these properties so can not be certain that the circumstances are the same. From the photographs provided, the rooms were furnished to a high quality. However, artificial lighting was in use and the photographs did not demonstrate how the rooms achieved good standards of natural light or outlook from the windows.
10. Basement accommodation might have been approved elsewhere and bedrooms in roof spaces sometimes only have an outlook to the sky. Moreover, basement accommodation could also be provided in a family dwelling. However, it is the combination of factors in this particular layout as a HMO that causes my concern regarding the living conditions of future occupiers rather than a generalised concern.
11. To conclude on this main issue, the proposal would not result in acceptable living conditions for future occupiers of the proposed HMO with particular reference to outlook and natural light within the basement rooms, private amenity provision, noise and disturbance. Accordingly, I find conflict with the

requirements of Policies P10 and H6 of the Council's Core Strategy (CS), Policy GP5 of the Unitary Development Plan (UDP), the guidance in the draft SPD and the provisions of the National Planning Policy Framework (the Framework) when taken together and in so far as they relate to this main issue. These, amongst other things, seek to ensure that developments function well and create places with a high standard of amenity for future users.

Balance and mix of housing

12. The appeal site is a terraced property in a residential area covered by an Article 4 Direction in relation to HMOs. The Council says that the boundaries for the Article 4 Direction were chosen to include areas which were either, already suffering from harmful effects from high concentrations of HMOs or were likely to suffer an encroachment of HMO concentrations due to their proximity to existing areas of high concentrations. There is no firm evidence before me as to which category the area around the appeal site fell into.
13. There is no definition before me as to what the Council consider to constitute 'the area' or an over-concentration. The appellant's evidence has drawn from the HMO license register and planning records. However, the absence of a planning consent does not establish that a property's use as a HMO is not historical and lawful. Moreover, whilst I have no reason to dispute the figures provided, the Council's use of council tax records would also capture smaller HMO's that fall outside of the licensing regime.
14. The Council indicates that 40 properties within an area of 85m² are registered as a HMO, this includes six on the street. Additionally, two properties on the street have permission to be sub-divided into flats. However, I do not have the full details of which properties on the street the Council record as HMOs, or what proportion of the street or area's housing stock are in use as HMOs. Moreover, I do not have full details of the type of accommodation provided by the approved flats and how that relates to the balance and mix of housing.
15. A further map of council tax records has been provided in the appeal by the Council showing an area to the east of Armley Primary School to Armley Park Road. If I accept that this map shows the latest accurate number of HMOs, it shows a distribution of HMOs throughout the map with some streets having a greater density than others. However, full details of the area are not included, such as, the number of HMOs relative to the housing stock. Moreover, from the evidence before me, it appears that there would still be a much greater number of properties that are not HMOs.
16. There is also no substantive evidence provided of any harmful effects associated with HMOs in this area such as, amongst other things, anti-social behaviour, crime, noise and disturbance, or pressures on parking provision. These effects are cited by the Council as being linked to areas in the city that have high concentrations of HMOs. The Council have referred to a Public Protection Order in relation to wheelie bins and that during the Council's Officer site visit, bins were outside on the street to the rear. I also saw many bins on the street. However, even if bins are left out permanently to the rear, given the small number of HMOs on the street, I can not accept that this issue is clearly linked to occupiers of HMOs.
17. The proposal would result in the loss of a potentially family home and is located near a school. Even so, based on the evidence before me I can not conclude

that the proposal would lead to an over-concentration of HMOs in the area. I therefore conclude on this main issue that the proposal would not have a harmful effect on the character of, and the living conditions within, the surrounding area, with particular regard to the balance and mix of housing.

18. As such, I do not find conflict with the requirements of Policies H6 and P10 of the CS, Policy GP5 of the UDP or the provisions of the Framework, when taken together and in so far as they relate to this main issue. These, amongst other things, support strong, vibrant and healthy communities, and the need to avoid detrimental impacts of a high concentration of HMO's where the balance and health of communities would be harmed.

Living conditions – immediate neighbouring properties

19. A property occupied in C3 use would have a greater unity in the activities within, and from its comings and goings. This is because members of the same household have a greater level of shared activities and visitors than would be associated with six unrelated adults. Even so, and considering my findings that there is not an over-concentration of HMOs in the area, the increased risk of noise and disturbance from the increased individual activity of occupiers of the proposed HMO, would not be of a level that would result in unacceptable harm to the living conditions of the neighbouring properties. I have reached this conclusion recognising the close relationship between the terraced properties.
20. To conclude on this main issue, the proposal would not unacceptably harm the living conditions of the occupiers of existing properties either side with particular reference to noise and disturbance. As such, I do not find conflict with the requirements of Policies P10 and H6 of the CS, Policy GP5 of the UDP, the guidance in the draft SPD or the provisions of the Framework, when taken together and in so far as they relate to this main issue. These, amongst other things, seek high standards of amenity for existing occupiers.

Other Matters

21. The absence of harm in relation to other considerations including highway safety are neutral matters that weigh neither for nor against the proposal. I recognise that the appellant made changes to the scheme following a previously refused application. However, these changes, or concerns regarding the processing of the application, are not matters for my consideration. I have determined the appeal scheme on its own merits.
22. The appellant has developed other HMOs in the city, and I am told this has raised the standard from run down or disused terraced housing to high quality accommodation. In this regard, the proposal would see investment in the building. However, the appeal premises are in occupation and there is no firm evidence that it is run down, limiting the weight I afford this matter.

Conclusion

23. For the reasons given above, the proposal would conflict with the development plan and there are no material considerations that would outweigh this conflict. Therefore, the appeal is dismissed.

Mr R Walker

INSPECTOR