



Appeal Decision

Site visit made on 4 June 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2024

Appeal Ref: APP/W4515/W/24/3339421

116 Woodbine Avenue, Wallsend, North Tyneside NE28 8HE

- 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 Taylor (Ford Rufus Limited) against the decision of North Tyneside Council.
 - The application Ref is 23/01439/FUL.
 - The development proposed is change of use from dwelling apartment to 7 Bed HMO.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I undertook the site visit in conjunction with two other appeals relating to proposed Houses in Multiple Occupation (HMOs) at 102 Laurel Street and 245-247 Station Road; each of which is subject to a separate decision.

Main Issues

3. I consider that the main issues in this appeal are:
 - Whether the development would provide an acceptable standard of living for its occupants, with particular regard to its internal layout;
 - The effect of the development on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance, and the fear of crime;
 - Whether the development would achieve sustainable mixed communities, with particular regard to housing mix.

Reasons

Living conditions of the occupants

4. The appeal property is part of a mid-terrace building divided into flats. The proposal is to change the upper floor 4-bed flat into a 7-bed HMO. The size of bedroom 2 means that the proposal has capacity for up to eight occupants. I note that one of the Council's suggested planning conditions seeks to limit the number of occupants to seven. However, such a condition would be difficult to monitor and enforce, so I have assessed the proposal on its capacity.
5. The new HMO would have accommodation across two floors, with three bedrooms, a kitchen, dining room/lounge, and one bathroom (no toilet) at first floor level; and four bedrooms and one bathroom within the loft space,

with two of the bedrooms served by a new rooflight each. The appellant states that the proposal complies with the Council's HMO licensing standards, including in relation to room sizes. Even so, compliance with licensing standards does not automatically mean that planning permission should or will be forthcoming as licensing and planning legislation are separate.

6. In this case, five of the bedrooms would be at the smaller end of the scale in terms of floor area, providing little space to be used by their occupants for leisure and or relaxing away from other occupants, bearing in mind that the occupants would be unrelated and living separately so at times would desire their own private and quiet space for such purposes. Bedrooms 4 and 7 in the loft would feel particularly cramped and claustrophobic owing to their dimensions, restricted ceiling height, and limited outlook from a sky-facing rooflight.
7. In addition, although a bathroom would be provided on each floor, only the top floor bathroom would contain a toilet. This would not be adequate for the number of occupants living independently at the property, particularly as the toilet could not be used separately if the bathroom was already occupied. The kitchen would also be very narrow with little space for multiple users at a time, particularly as its useable space would be further compromised by the stairwell and bathroom doors opening into it. The overall result would be cramped accommodation with a poor standard of amenity for its occupants.
8. For these reasons, I find that the development would result in less than adequate living conditions for the occupants. As such, there is conflict with Policy DM4.10 a) of the North Tyneside Local Plan 2017 (the LP) which seeks to ensure that proposals for HMOs provide good quality accommodation. There is also conflict with Policy DM6.1 f) of the LP and paragraph 135 f) of the National Planning Policy Framework (the Framework) which expect a good standard of amenity for existing and future residents and users of buildings and spaces.

Living conditions of neighbours/fear of crime

9. Woodbine Avenue is wholly residential in character with properties that are closely spaced. Therefore, there is a susceptibility for the living conditions of neighbouring occupants to be affected by the introduction of a more intensive use.
10. The proposal could be occupied by up to eight individuals, most of whom would be unrelated with their own separate work and domestic regimes and attract their own visitors and deliveries at different times during the day and evening. In this respect, the HMO use is more likely to increase the volume of movements to and from the property than a single family dwelling, and the range of times when these activities take place.
11. In addition, the HMO use, with up to eight individuals sharing the use of the small rear yard for recreation, bicycle storage, and refuse disposal, would likely result in a more intensive use of the outside space than would be the case with a single family occupying the appeal property. These activities would be particularly evident to the occupants of the ground floor flat due to the proximity of the proposed cycle and bin stores to their rear window. It may also discourage the ground floor occupants from using the rear yard.

12. Consequently, it is likely that neighbouring occupants would experience a noticeable increase in noise and disturbance from comings and goings outside of the building, increased vehicular and pedestrian movements, and intensified use of the rear yard, to the detriment of their living conditions. In reaching this view, I have taken into account that there is currently nothing to prevent the appeal property from being converted into a 6-bed HMO without planning permission. The prospect of this outcome is of a reasonable likelihood if this appeal is dismissed, so is more than a theoretical possibility. However, with fewer occupants, such a scenario would be unlikely to lead to the same increase in noise and disturbance, and so, would be less harmful.
13. The proposal is also subject to an objection from Northumbria Police who are concerned that the HMO use would result in an increase in crime, and the fear of crime in the local area. This concern is shared by the Council and local residents.
14. The courts have held that the fear of crime is only a material consideration where the use, by its very nature, would provide a reasonable basis for concern. It is not a foregone conclusion that the use of land as a HMO would inevitably result in an increase in crime, and the fear and concern must therefore be supported by evidence.
15. In this respect, Northumbria Police have provided undisputed evidence which indicates that Woodbine Avenue is in a high crime area and they have assessed the overall likelihood of crime risk to, or from, this proposed development as high. Furthermore, the evidence as presented, indicates a higher potential for non-domestic violence inside HMOs compared to standard apartments, resulting from the particular stresses and insecurities of living in low-quality, crowded accommodation with shared facilities and little choice of co-habities. While the appellant has questioned the relevance of this evidence to the local area, the views of Northumbria Police will also have been derived from their experience and knowledge of the local area and its issues. Moreover, I am satisfied that the risk assessment carried out by Northumbria Police is specific to the proposal having regard to the level of occupancy, internal layout, and characteristics of the area, rather than a generalised concern about HMOs. As such, and in the absence of any substantive evidence to the contrary, the views of Northumbria Police carry significant weight in my assessment.
16. I have already found that the proposal would provide a cramped living environment for its occupants. Based on the evidence before me, this would increase the potential for non-domestic violent offences at the site compared to single family occupancy, and in turn lead to an increase in police visits to the site. Visits by marked police vehicles would be highly noticeable to neighbouring residents due to the closeness of the properties and would clearly mark the HMO apart from other residential properties. Given the high crime levels in the area, local residents are likely to have heightened sensitivity to such experiences. I therefore consider that the proposal has the real potential to exacerbate the fear of crime and undermine community cohesion where issues do arise.
17. Drawing these factors together leads me to conclude that the proposal would have an adverse effect on the living conditions of neighbouring occupants through increased noise and disturbance, and a realistic fear of crime. To be clear, these concerns arise from the particular details of the proposal and its

context. Thus, the proposal is contrary to LP Policies DM4.5 f), DM4.10 b) and DM6.1 f) which collectively seek to maintain the amenity of nearby dwellings and requires development to contribute positively to creating healthy and safe communities. It is also contrary to paragraph 135 f) of the Framework which states that developments should 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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Sustainable mixed communities/housing mix

18. The evidence indicates that the area has a high proportion of 1 and 2-bed private rented flats. One of the aims of the draft Wallsend Town Centre Masterplan (the Masterplan) is to create a more sustainable community through providing larger family homes either through new development or conversion of flats.
19. The proposal would not directly assist in this regard. Nevertheless, the Masterplan is currently only in draft form so it does not have the same status as development plan policy. Moreover, it appears that there are a variety of projects and initiatives which are being actively pursued by the Council to deliver the aims of the Masterplan, including the purchasing and refurbishment of long-term empty homes in the area, as well as the promotion of new development sites which are allocated in the LP. Indeed, the Council's Regeneration team did not raise any objection to the proposal. On this basis, and with regards to the scale of the proposal, I do not consider that the proposal would be unduly prejudicial to the aims of the Masterplan.
20. Furthermore, Policy DM4.10 states that HMOs will be permitted provided they meet certain criteria, including taking account of the cumulative effect so that HMOs do not become the dominant dwelling type. As previously stated, I am dealing with two other HMO proposals in the area. However, the evidence before me does not indicate that the proposal, either alone, or in combination with other proposals, would lead to an overconcentration of HMOs within the street and surrounding area.
21. Thus, separate to my findings on the other main issues, I find no conflict with requirements of LP Policies DM4.5 and DM4.10 in terms of achieving sustainable mixed communities, with particular regard to housing mix. However, this does not outweigh the other harm I have identified.

Other Matters

22. I acknowledge the benefits of the proposal to housing supply and the flexibility that HMOs play in ensuring some form of housing can be made available to all, particularly single occupants. These are positive factors which weigh moderately in favour of the proposal.
23. While there may be some limited environmental benefits from higher occupancy levels, this would be negated by the harmful effects I have identified in this regard.
24. The increase in population arising from the development, both alone and in combination with other development projects, has the potential to have a significant effect on the integrity of the Northumbria Coast Special Protection

Area and Ramsar Site which is a European Site afforded protection under the Conservation of Habitats and Species Regulations 2017. To this effect, the appellant has offered a financial contribution towards the Council's Coastal Mitigation Service. However, as I intend to dismiss the appeal for other reasons, it has not been necessary to consider this matter any further. Furthermore, as the financial contribution is required for mitigation against harmful effects of the development, it does not count as a benefit.

25. Planning permission was recommended to be granted by Council planning officers and due consideration has been given to the contents of their report. However, I concur with the Council's ultimate decision for the reasons set out above.
26. Finally, whilst I have noted the appellant's concerns with the Council's Planning Committee procedures, these are not matters which fall within the scope of this appeal, and so, have not influenced my assessment of the planning merits of the scheme.

Conclusion

27. I have found conflict with relevant policies of the LP and consider that the appeal proposal through the identified conflict does not accord with the development plan as a whole. There are no material considerations, including the benefits of the proposal, which indicate that planning permission should be granted for the development which conflicts with the development plan. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR