

Appeal Decision

Site visit made on 29 May 2024

by C Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/Y1110/W/23/3333038

6 Gladstone Road, Exeter, Devon EX1 2EE

- 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 Davies against the decision of Exeter City Council.
 - The application Ref is 23/1065/FUL.
 - The development proposed is change of use from flat and maisonette (Use Class C3) to ground floor flat (Use Class C3) and one small HMO (Use Class C4) on first and second floors.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is a suitable location for the proposed change of use, having particular regard to development plan policy.

Reasons

3. Policy H5 of the Local Plan¹ allows the conversion of residential properties to Houses in Multiple Occupation (HMOs) provided that certain criteria are met. This includes paragraph (b) of the policy which says that schemes will only be permitted where *the proposal will not create an over concentration of the use in any one area of the city which would change the character of the neighbourhood or create an imbalance in the local community*.
4. To help implement this policy, there is an Article 4 Direction covering both Gladstone Road and other streets in the surrounding area. While this does not prohibit new HMOs from being established, it does require planning permission to be granted first. I understand that the Article 4 was established because the Council consider there to be an imbalance in the local community caused by a proliferation of HMOs occupied by students. The Council estimates the number of HMOs in a given area by using data for Council Tax exemptions and says that an imbalance may be occurring when 20% of properties are found to be exempt. I have not been provided with any better ways of measuring community imbalance and so accept this approach.
5. Planning guidance for the Article 4 area is set out in the Houses in Multiple Occupation SPD². Paragraph 5.1 of this document indicates that further changes of use to HMOs will be resisted. It goes on to state that the Council considers there to be an over concentration of Student Housing in the Article 4 area for the purposes of Local Plan Policy H5.

¹ Exeter Local Plan First Review 1995-2011

² Houses in Multiple Occupation Supplementary Planning Document 12 December 2023

6. As the SPD was only adopted in December 2023, I give it substantial weight in this appeal. Nonetheless, the amount of student accommodation in any given area is likely to fluctuate over time. As such, a blanket restriction on new HMOs can only be justified if there is clear evidence of an imbalance in the local community as described by Policy H5 of the Local Plan.
7. According to the Council, the part of the Newton ward within the Article 4 area contains 33% Council Tax exempt properties. However, data has also been provided for individual streets near Gladstone Road which show Council Tax exemptions comfortably below the 20% figure. This includes Sandford Walk, Clifton Street and East John Street. On the other hand, the number of Council Tax exempt properties in nearby Portland Street is 41%.
8. The appeal property is on the edge of the Article 4 area close to a hospital and supermarket. However, Portland Street is a short walk away from the appeal property and, in my view, clearly forms part of the same local community. Hence, even though some streets near the appeal property have low levels of Council Tax exemptions, it is still the case that there is a concentration in the vicinity of the appeal property. The proposed change of use would only exacerbate this imbalance. As such, it would conflict with both the SPD and Policy H5 of the Local Plan.
9. I note that the appeal property has been divided into separate residential units, so the proposal would not substantially increase the number of occupants. However, the evidence indicates that HMOs in this area are mainly occupied by students. As such, the demographic profile and turnover of occupants has potential to change as a result of the proposal, materially altering the characteristics of the appeal property.
10. I am aware of an Appeal³ where a certificate of lawful use was issued for a HMO in Hoopern Street. However, the Inspector in that case did not consider whether the proposed development was compliant with development plan policy. As such, it is of limited relevance to the current appeal.
11. Of more relevance is an Appeal⁴ which concerned a proposal to change the use of a dwelling to a HMO in Dinham Road, which is also in the Article 4 area. In that case, the Inspector noted that there was one other HMO in Dinham Road and by allowing the appeal for a second HMO it would only result in 11% of properties in the street being Council Tax exempt. It was also noted that the nearest concentration of HMOs was some distance away to the north west. Consequently, it was decided that the proposal would not create an over concentration of HMOs in the area.
12. The Inspector based his decision on an earlier version of the SPD from 2013. This relied on data that was 9 years old at the time of the appeal and had not been updated since. The circumstances of the current appeal are somewhat different as the current version of the SPD is less than a year old and the Council's latest data is from 2022. This shows a concentration of Council Tax exempt households close to the appeal property.
13. For the reasons given above, I therefore conclude that the site is not a suitable location for the proposed change of use. The proposal would conflict with both the SPD and Policy H5 of the Local Plan. It would also conflict with Policy DG4

³ Appeal Ref: APP/Y1110/X/22/3293554

⁴ Appeal Ref: APP/Y1110/W/21/3288883

of the Local Plan and Policy DD11 of the DPD⁵ insofar as it would exacerbate community imbalance. Amongst other things, these policies aim to protect residential amenity.

14. The appeal is therefore dismissed.

C Cresswell

INSPECTOR

⁵ Exeter Development Delivery Development Plan Document, July 2015