
Appeal Decision

Site visit made on 16 January 2025

by **M J Francis BA (Hons) MA MSc MCIfA**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2025

Appeal Ref: APP/W2465/W/24/3351103

17 Vernon Street, Leicester LE3 5JQ

- 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 Mrs Kirandeep Athwal against the decision of Leicester City Council.
 - The application Ref is 20240776.
 - The development proposed is change of use of C3 to C4 (small HMO)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024 and the main parties have been consulted on the implications of the revised Framework's publication on the appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character of the area with regards to the mix and balance of housing, and the living conditions of the occupiers of nearby properties in terms of noise and disturbance and fly tipping; and
 - whether the proposal would harm the living conditions of future occupiers.

Reasons

Character, housing mix and living conditions of neighbouring occupiers

4. The appeal site is a two-storey, mid-terrace, in a residential area of similar style housing. Vernon Street has a small park, fringed by trees, and at one end is 'Tudor Studios', a substantial brick building that has been converted to student accommodation.
5. Policy CS08 of the Leicester City Core Strategy, 2014, (CS) states that within the inner areas, larger houses appropriate for family use should be retained and conversion to other types of accommodation resisted. Furthermore, houses in multiple occupation (HMOs) where planning permission is required and where they would result in a local over concentration, are not allowed. In addition, Policy CS06 of the CS requires that conversions to housing must not adversely impact the character of an area or the maintenance of mixed communities.

6. The site is within Sub Area – West and is subject to an HMO Article 4 Direction¹, 2021, which requires planning permission for the change of use of a property from a Use Class C3 dwellinghouse to a use Class C4 house in multiple occupation². The report³ which led to the designation, refers to concerns regarding the over-concentration of houses in multiple occupation within certain areas of the city which would be harmful to the amenity or wellbeing of residential communities. The property is in Fosse Ward, where at the time of the report⁴, 12.89% of properties were designated as HMOs.
7. The property has two bedrooms on the 1st floor and a bathroom, with a lounge, living room and kitchen on the ground floor. Whilst No 17 Vernon Street is not a large property, it is suitable for a family. With limited substantive evidence of need, the proposal would result in a further HMO in an area where there is already an over-concentration, as demonstrated by the Article 4 Direction. Whilst one extra HMO may not be seen as harmful, it is the cumulative effect of the creation of such properties which can, over time, change and harm the character of an area resulting in an imbalance in a community.
8. Fosse Ward is reported as having the highest percentage of fly tipping and noise issues, which the Council contends, often result from HMOs. I saw that refurbishment works to the house were taking place, and it was likely unoccupied at this time. Whilst there were several wheelie bins on the pavement in the vicinity of the site, there was no indication of any rubbish on the streets or within the park at the time I visited. Although HMOs may lead to fly tipping and rubbish left on the streets, there is little substantive evidence before me that this would be a problem at this site.
9. However, the use of the house as a HMO, occupied by a group of individuals, or two couples, as suggested by the appellant, would have different living patterns to a family group. The occupiers would lead independent lives from one another and there would be a more intensive level of activity with an increase in comings and goings. Moreover, based on the size of the house, and what I saw regarding the position of the front door and its proximity to neighbouring properties, there is potentially a greater chance of noise affecting neighbours. Consequently, the proposed development would be highly disruptive to the occupiers of neighbouring properties.
10. I therefore conclude that the change of use would have a detrimental effect on the mix and balance of housing and the living conditions of nearby properties with regards to noise and disturbance.
11. It would not accord with CS Policies CS06 and CS08 as set out above, as well as Policy PS10 of the Leicester Local Plan, 2006, which amongst several things, requires the effect on existing or proposed residents resulting from noise, potential litter and the ability of an area to assimilate development, to be considered when determining planning applications for new development.

¹ Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

² The Town and Country Planning (Use Classes) Order 1987, as amended

³ Review of Article 4 Directions relating to Conversion of Houses (Class C3) to Class C4 Small Houses in Multiple Occupation

⁴ 2021

Living conditions of future occupiers

12. The proposed layout of the house shows two bedrooms, which the appellant states would be occupied by two couples. Whilst the kitchen would be limited in size, there would be two living rooms on the ground floor for eating and socialising.
13. The Council refers to the Nationally Described Space Standard⁵ (NDSS), which relates to all types of residential use. The plans show that the rear bedroom, which is smaller in size, would allow for limited storage space, particularly if a couple were occupying the room, rather than a single person. However, as there is no policy within the development plan that discusses internal space standards, the NDSS is not relevant in this instance. Furthermore, as there is no evidence to suggest that the size of the house has changed since originally built, the property would not, in any case, achieve the NDSS for a two-bedroom, four-person dwelling, even if it was not proposed to be used as an HMO.
14. Whilst CS Policy CS03 states that buildings should be 'fit for purpose', the policy does not discuss the NDSS or any space standards. However, the proposal would accord with this policy.

Other Matters

15. The appellant refers to a fallback position as there is a certificate of lawfulness of proposed use or development⁶ for the site for a change of use of the dwellinghouse from Use Class C3(a) to Use Class C3(c). Whilst this would allow six individuals to live in the property, these must represent a single household, where no care is provided to residents (other than a use within Class C4). However, there is no evidence that a single household would occupy the property. Consequently, there is no real prospect that such a fallback position would be implemented, notwithstanding that the use of the property by a single household would result in a less intensive form of development and be less disruptive than it being used as an HMO. Therefore, I give this limited weight.
16. Caselaw relating to whether a house can be an HMO, even if it includes self-contained units, has been referred to by the appellant. However, this is not being applied for, and so is of limited weight. In addition, highway safety concerns resulting from a C3 to a C4 use is not a contested issue. Therefore, this does not need to be considered further.

Conclusion

17. The proposed development conflicts with the development plan when considered as a whole and whilst there are material considerations in favour of the development, these do not outweigh the identified harm and warrant a decision other than in accordance with the development plan.
18. For the reasons considered above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR

⁵ Technical housing standards – nationally described space standard, 2015

⁶ Ref 20240254