
Appeal Decision

Site visit made on 21 January 2025

by **N Kempton BAHons PGDip MA IHBC MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/C2741/W/24/3354141

3a Harington Avenue, York, North Yorkshire YO10 3SU

- 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 Shaun Yeomans against the decision of City of York Council.
 - The application Ref is 24/00157/FUL.
 - The development proposed is change of use from dwelling house (Use Class C3) to House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The City of York Draft Local Plan 2018 (LP) was submitted for examination on 25th May 2018. The Draft Plan is at an advanced stage having been through consultation and examination, and as such the policies can be afforded weight in accordance with paragraph 49 of the Framework.
3. The Council made an Article 4 Direction, which came into force in April 2012, which removes permitted development rights, requiring the submission of a planning application to change a property into a House in Multiple Occupation (HMO). The planning consent for a residential dwelling (Use Class C3) relating to the appeal property, was granted after the Article 4 Direction came into effect. As such, planning permission is required to secure authorised use of the property as an HMO (Use Class C4).
4. The application was submitted retrospectively as the development has already been carried out. I have therefore assessed this appeal on this basis.

Main Issues

5. The main issues relevant to this appeal are the effect of the development on:
 - the density levels of HMOs at street-level and neighbourhood level;
 - highway safety with particular regards to provision for off-street parking.

Reasons

Density Levels of HMOs

6. The appeal site is a two-storey end of terrace property located on the north side of Harington Avenue, which is in a residential area predominantly characterised by

terraced housing. Dwellings have gardens to the front and rear, though some front gardens have been given over to hardstanding, which erodes the street scene.

7. Whilst HMOs are regarded as a valuable asset to the housing offer, conversely, the concentration of HMOs impacts upon neighbourhoods and increases rental costs. Loss of properties to conversions for HMOs can serve to exacerbate the need for family and starter homes and undermine the Council's ambition to build mixed and balanced communities through the provision of a range of dwelling types and sizes.
8. LP Policy H8 Houses in Multiple Occupation and the Draft Supplementary Planning Document 'Controlling the Concentration of Houses in Multiple Occupation' (2012, updated July 2014) (SPD) establish a threshold-based policy approach for controlling the number and concentration of HMOs across the City.
9. Evidence before me demonstrates that the current thresholds at both street level and neighbourhood level exceed policy limits. The appellant disputes the Council's figures but has provided little substantive evidence to demonstrate that the proposal would not result in an over-concentration of HMOs in the appeal street or within a 100m radius. On the balance of evidence before me, including concentration calculations and current threshold levels, it is evident that use of the appeal property as an HMO would further compound the concentration of HMOs.
10. Where a significant number of HMO uses are permitted, then cumulatively and over a period of time, the character of Harington Avenue would change through more intensive use, negatively impacting upon the streetscape, the physical environment and resulting in an imbalanced and unsustainable community.
11. The level of activity generated by a number of unrelated individual residents occupying the appeal property, would be greater compared with that of a single family household occupying this dwelling. As such, use of the appeal property as an HMO, and the resultant intensification of use and increased activity, is likely to have a harmful effect on the living conditions of neighbouring residents with regard to noise, disturbance and increased parking pressures.
12. For these reasons, I have found that the development conflicts with development plan policy and guidance. The development is contrary to LP Policy H8, which states 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: (i) it is in a neighbourhood where less than 20% of properties are licensed as HMOs and (ii) less than 10% of properties within 100 metres of street length either side of the application property are HMOs and (iii) the accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.
13. The development is contrary to guidance in the SPD, which states that in considering applications for HMOs, the Council will seek to ensure that the change of use will not be detrimental to the overall residential amenity of the area. The SPD sets out that a combined approach of both a neighbourhood and street level analysis of HMOs to control concentrations of HMOs of more than 20% of all households at a neighbourhood level and 10% at the street level.

Car Parking

14. The appeal property is situated within Harington Avenue, a narrow street, the layout of which was not originally designed with private cars in mind. Rather parking is on-street, except for a few properties, including the appeal property, where front gardens have been given over to hardstanding to create private parking. Whilst the appellant contends that there is adequate off-street parking to the front of the property, I observed that the porch projects beyond the façade of the dwelling and intrudes into the area of hardstanding. This foreshortens the parking space, such that a car occupying this space is likely to overhang the property boundary onto the public footway. Notwithstanding this, I consider that there is provision for one car parking space within the site.
15. The Council refers to the car parking guidelines set out in Appendix E of the Development Control Local Plan (2005), which requires provision of a maximum of 1 car parking space per 2 bedrooms for HMOs. This equates to 2 car parking spaces for the 4 bedrooms in the appeal property. Whilst the guideline figure is a maximum and the Council accepts that the guidelines carry very limited weight, applying parking requirements helps to manage the demands for on-street parking.
16. When I visited the appeal site, midweek around midday, the road appeared to be at capacity for on-street parking. Failure to provide adequate parking within the appeal site will potentially result in additional cars contributing to the existing parking congestion that I observed in Harington Avenue and in neighbouring streets in the immediate vicinity of the appeal site.
17. Therefore, I have found that the development is detrimental to highway safety with particular regards to provision for off-street parking. The development is contrary to LP Policies T1 and H8 which, amongst other things, require development proposals to create safe and secure layouts for motorised vehicles, cyclists, pedestrians and minimise conflict, and conversions to HMOs to be of a high standard which does not detrimentally impact upon residential amenity.
18. Furthermore, I have found that the development is contrary to the guidance in the SPD, which states that in considering applications for HMOs, the Council will seek to ensure that the change of use will not be detrimental to the overall residential amenity of the area. Paragraph 5.17 of the SPD states, amongst other things, that sufficient space for potential additional cars to park should be demonstrated, and that the change of use and increase in number of residents will not result in the loss of front garden for hard standing for parking and refuse areas which would detract from the existing street scene.

Other Matters

19. The appellant refers to comparable cases and states that the concentration of HMOs in other streets greatly exceeds the maximum threshold. However, no substantive evidence has been provided to verify other HMOs. As such, I have no information on the context in which decisions relating to these other HMOs were made- how policy threshold calculations were made or at what stage relevant policy or guidance was when these cases were determined. For these reasons, I am unable to draw any comparisons with these other cases. I attribute minimal weight to this matter.
20. The appellant states that the appeal property has been constructed to a high standard in terms of energy efficiency and the proportions of the internal layout. These factors are noted, but they do not justify use of the property as an HMO or

mitigate the harms arising from the concentration of HMOs in the street and the neighbourhood. I attribute minimal weight to this matter.

21. I note the letter of support for the development and that the property is well maintained. However, this support does not in itself lead me to a different conclusion on the main issues.
22. It is the appellant's case that the appeal property has been rented out through a letting agent since at least 2016 and is currently in use as an HMO. I acknowledge this and I note that the appellant's application for an HMO licence is awaiting final approval. This was submitted in April 2024 in response to changes to the Council's HMO licencing rules relating to occupancy numbers. However, the licencing for HMOs is separate from the planning approval process and does not negate the requirement to secure planning permission for a change of use from a dwelling house (Use Class C3) to an HMO (Use Class C4).

Conclusion

23. In light of the harm I have found, use of the appeal property as an HMO is contrary to the development plan when read as a whole and there are no material considerations to indicate that a decision should be taken other than in accordance with that plan.
24. For the reasons given above the appeal is dismissed.

N Kempton

INSPECTOR