



Appeal Decision

Site visit made on 12 March 2025

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2025

Appeal Ref: APP/C2741/W/24/3356929

6 Custance Walk, York YO23 1BX

- 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 Danny Mason of Ridgeway Investment Group Limited against the decision of City of York Council.
 - The application Ref is 24/01277/FUL.
 - The development proposed is described as: 'Change of Use from a C3 to flexible C3 and C4 property'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The City of York Local Plan (2025) (the YLP) has been adopted since the submission of the appeal. I have determined the appeals on the basis of the most up to date policies
3. On the site visit I saw that some of the works to relocate the position of some of the windows had already been carried out. Nonetheless, I have based my decision on the submitted plans that were before the Council when it made its decision.
4. Notwithstanding the submitted plan identifying the front and rear elevations, my impressions on the site visit were that the front elevation was the elevation facing south towards the shared parking area. This elevation includes a porch and a front door with a letterbox. All references to the front elevation in my decision relate to this elevation. The front garden lies forward of this elevation.
5. I have been provided with a plan showing a cycle store attached to the existing porch on the front elevation. The appellant has also provided details of a licence to erect a cycle shed within the rear garden. Neither appear within the list of plans that were before the Council when it issued its decision. In that regard, I am mindful that an appeal should not be used to evolve a proposal and it is important that my assessment of a scheme is on the basis of essentially what was considered by the local planning authority. As these plans have not been subject to any formal consultation they could be prejudicial to the interests of interested parties were I to take them into account. Therefore, in the interests of fairness, I have determined the appeal on the basis of the plans on which the Council made its decision.

Main Issues

6. The main issues are whether the proposed development would provide adequate living conditions for future occupiers of the accommodation, and the effect of the proposed development on the character and appearance of the area.

Reasons

Living Conditions

7. 6 Custance Walk is a two storey end of terrace dwelling located within a residential cul-de-sac. The dwellings within the terrace are all of a very similar design and width, with relatively large windows and a flat roof porch to the front elevation. The front gardens here are open and predominantly grassed and none include off street parking. The dwellings front a turning head which is partly used for Permit Holder car parking. Rear gardens are more enclosed, backing onto the rear of properties along Swann Street.
8. The proposal would involve the conversion of a two bedroom dwelling to a four bedroom House in Multiple Occupation (HMO). The submission has been supported by a drawing described as 'Proposed Layout (with measurements)'. This drawing is not drawn to scale and does not appear to be proportionally accurate which makes it difficult to assess whether the proposal would provide acceptable levels of internal space.
9. For example, Bedroom 3 is annotated as 2.6 metres wide which is greater than the annotated width of the kitchen (2.3 metres) despite the kitchen being drawn significantly wider. Additionally, the widths of the ground floor rooms at 2.3 metres and 2.4 metres (totalling 4.7 metres) do not appear to equate to those at first floor which are shown as 3.5 metres and 2.6 metres (totalling 6.1 metres). I would further highlight that Bedroom 1 would appear to be a square room measuring 3.4 metres x 3.4 metres but it is drawn as a rectangle.
10. This leaves me in considerable doubt as to the accuracy of the existing and proposed plans which makes it difficult for me to conclude that the proposal would provide acceptable levels of internal space. Nevertheless, despite these discrepancies it is clear that Bedroom 3 is very small. The appellant sets out that this would have an internal area of 7 square metres. This would be less than the 7.5 square metres minimum room size set out in the nationally described space standard (NDSS).
11. Whilst the Council references a smaller requirement of 6.51 square metres, it appears from the proposed plans that Bedroom 3 would be created primarily utilising the walls that currently form the first floor bathroom (incorporating the WC and a section of landing). Bedroom 3 thus occupies a very small area and, due to its narrow shape including an even narrower portion aligned with the staircase, the actual useable floor space is likely to be even less. As well as its narrow shape, the position of the windows and inward opening door are also likely to restrict the potential for furniture. Moreover, once a bed and furniture are installed in the room, it is likely to feel severely cramped and confined.
12. Although the proposal includes a communal living room and a kitchen on the ground floor, being resident in a HMO and living independently of one another, future occupiers are likely to choose to spend more time in their private space. As a

consequence, the future occupier of Bedroom 3 would likely live in unacceptably cramped accommodation, adversely affecting their living conditions.

13. The proposed living room would be significantly smaller than that which exists in the two bedroom dwelling but would likely serve a greater number of adults. Due to the position of the narrow window to the side of the porch, it would be extremely poorly lit by natural light. The extent of ventilation provided by this window is also unclear. Owing to the limited nature of the accommodation, this would contribute to poor quality internal space that would not be well-designed.
14. The National Design Guide (NDG) sets out that well-designed homes and communal areas within buildings provide a good standard and quality of internal space. This includes room sizes, floor-to-ceiling heights, internal and external storage, sunlight, daylight and ventilation. On the basis of my above assessment the proposal would fail to meet these requirements. This reinforces my above reasoning.
15. The NDG also states that well-designed buildings should be carefully integrated with their surrounding external space. The proposed plans show a cycle store being located within the existing porch. Due to the limited nature of the drawings provided, it is unclear how around four cycles would be arranged within this space without compromising the continued access to the outside space. Storage within this space could make access to the front door difficult if these were placed within this area without due consideration, compromising the functionality of the HMO.
16. For the above reasons I therefore conclude that the proposal would fail to provide adequate living conditions for future occupiers. The proposal would therefore conflict with Policies D1 and H8 of the YLP and paragraphs 135 of the Framework which together, amongst other things, seek to ensure new development provides high standards of residential amenity for future users. There would also be conflict with Policy T1 of the YLP which requires development to provide sufficient convenient, secure and covered cycle storage.
17. For the same reasons the proposal would conflict with the provisions of the NDG, described above and would not accord with the requirements of paragraph 139 of the Framework which requires significant weight to be given to well-designed development and sets out that in circumstances where proposals are not well-designed or do not adhere to the NDG they should be refused.

Character and Appearance

18. As it has not been demonstrated that the proposal could provide a sufficient level of cycle storage as part of the development, the Council considers that this could lead to future occupants storing cycles within the front garden. Whilst sporadic storage of cycles may occur, it would be unlikely to be excessive given that cycle storage is proposed in the porch, notwithstanding its disruption to the functionality of the dwelling. As such, I am satisfied that the proposal would not be harmful to the open character of the gardens within the terraced row.
19. The proposal would therefore preserve the character and appearance of the area. On this basis it would comply with Policy D1 and the provisions of the Framework which together and amongst other things seek to ensure new development is well designed with regard to the character and appearance of the area.

Other Matters

20. The appellant has referred to inconsistencies with regard to pre-application advice received before submitting the application. Although I sympathise with the appellant in this regard, my role is to assess the proposal before me and I would note that any pre-application advice received is not binding.

Conclusion

21. Having considered the development plan as a whole, the approach in the Framework, and any other relevant considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR