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## Appeal Decision

Site visit made on 11 March 2025

**by F P Tinsley MA (Hons) MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14<sup>th</sup> April 2025

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**Appeal Ref: APP/N4720/W/24/3356338**

**19 Brudenell View, Hyde Park, Leeds, LS6 1HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by J Planas against the decision of Leeds City Council.
  - The application Ref 21/08259/FU was refused by notice dated 23 September 2024.
  - The development proposed is described as 'Retrospective change of use from dwelling house (C3) to House of Multiple Occupation (C4) and lightwells to the front and rear'
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of the development on the application form is somewhat inaccurate. Consequently, I have used the description the Council has used on its decision notice, which more accurately describes the proposed development.
3. Reference to "retrospective" in the description of the development is not a form of development. However, the application form confirms that the development has commenced. As such, even though the application is submitted retrospectively the application before me specifically seeks the change of use to a Use Class C4, it is correct to assess the scheme against the relevant policies of the development plan that are relevant for new houses in multiple occupation (HMO). I have determined the appeal on that basis.

### Main Issues

4. The main issues are:
  - The effect of the development on the living conditions of neighbouring occupiers, with particular regard to crime, anti-social behaviour, noise and other disturbance.
  - The effect of the proposed development on the sustainability of the local community, with particular regard to housing and population mix in the area.

### Reasons

#### *Living conditions of neighbouring occupiers*

5. The appeal site is a four-storey mid-terrace house in a predominantly residential area comprising mainly terraced and back-to-back houses. There are shops and

various other local services located a short distance from the site. Being close to the city's main university campuses and the city centre has contributed to the area containing a high number of houses in multiple occupation (HMO). The site is covered by an Article 4 Direction which requires planning permission for developments such as that proposed involving a change of use from Use Class C3 dwellinghouse to Use Class C4 HMO.

6. Regardless of whether the property is occupied by a single household such as a family or as an HMO, there is potential for noise and disturbance. It is noted that the fall-back position is that the property has authorised use as a dwelling house (Use Class C3) and no consent exists for use as a HMO (Use Class C4), regardless of the number of bedrooms. However, given the six bedrooms proposed in the property, the level of activity generated by unrelated persons and visitors would in my view be significantly more than that generated by a single household occupying the same or fewer number of bedrooms. Additional sources of noise and disturbance in the context of a HMO include multiple sources of music or entertainment, frequent comings and goings of occupants at various times of the day, noise associated with movement in the property including repeated use of doors and stairways and general noise associated with conversations and cooking in the property. As such, the cumulative impact of multiple households occupying the property would likely result in higher levels of noise and disturbance than if occupation were by a single household.
7. The Council have referred to evidence in relation to crime and ASB which indicates that the areas around the appeal site have suffered from particular types of crime including being a hotspot for ASB including nuisance incidents, alcohol related nuisances, assaults and burglary. Although this information relates to a period some time ago, I have no evidence to indicate that this situation has changed.
8. It is partly for these reasons that the Council seeks to manage the development of HMOs through the use of planning policy tools such as Policy H6 of the Core Strategy (as amended by the Core Strategy Selective Review 2019) Leeds Local Plan (the CS). The justification for which is established and has been tested.
9. I am satisfied that the potential for anti-social behaviour, crime, noise, nuisance and disturbance and further restructuring of local services associated with the development would likely lead to a discernible conflict between the lifestyles of HMO occupiers and local non-HMO residents. The cumulative effect of which, reduces the standard of living conditions in the area.
10. While there is disagreement regarding the precise number of HMO on the street there is agreement that a significant number of properties are likely not in HMO use. As it forms part of a densely populated inner-city neighbourhood with associated characteristics, the mixture of properties in Use Class C3 and C4 means that safeguarding amenity for all residents is particularly important. An additional HMO on the street will increase potential for negative impact on living conditions which will detract from achieving this objective.
11. I note the appellant's comments that the Environmental Health Officer, who the Council states was not consulted, has raised no objections to the proposals, nor has the Highway Authority who raised no objection on highways grounds. However, these considerations are insufficient to alter my view that the development would adversely affect living conditions.

12. While the appellant's agent observed no antisocial behaviour (ASB) or related activities when visiting the street in November 2024, I am not satisfied that this is representative of the overall potential for this activity. Even if the appellant has received no complaints regarding ASB and the lease agreements include clauses addressing ASB, this is not satisfactory evidence to indicate that potential for ASB is removed or diminished to an acceptable level.
13. For the above reasons, the proposed development would result in harm to the living conditions of neighbouring occupiers with particular regard to potential for anti-social behaviour, noise and other disturbance which would conflict with Policy H6 and P10 of the CS and Saved Policy GP5 of the Leeds Unitary Development Plan (Review 2006). Among other objectives, these policies seek to ensure that developments protect the residential and general amenity of the area.

*Sustainability of the local community*

14. Policy H6 of the CS states that proposals for new HMO in the Article 4 area will be determined against specific criteria.
15. The Leeds City Council Houses in Multiple Occupation (HMOs): Development Management Practice Note – May 2019 (the PN) sets out the Council's approach to interpreting CS Policy H6 and its supporting text. It does not hold the status of policy or adopted guidance, but it is a material consideration.
16. The Council considers that the area contains a high concentration of HMOs and that the effects of this concentration would generally be expected to go beyond the immediate locality.
17. While undertaking my site visit, I was able to identify that the high incidence of HMOs in the area is impacting on local service provision. There is an apparent structuring of retail and commercial services in the area towards serving occupants of HMOs. This is characterised by the volume of letting agents present on Brudenell Grove, as well as convenience stores and the number of hot food takeaways on both Brudenell Grove and around Queens Road and Royal Park Road. This mix is consistent with a local population characterised by more transient and less typically family orientated lifestyle. I also noted that Public Houses in the area are clearly geared towards students, who are typical occupants of HMOs. An increase in the local HMO concentration could exacerbate this trend, which is detrimental to non-HMO occupiers and undermines the balance and health of communities and their sustainability. More generally, the more transient nature of occupiers of HMOs means that they do not contribute to the same community cohesion that permanent residents do.
18. The actual number of HMOs currently on Brudenell View is disputed. However, even if I were to accept the appellant's position of there being 14 HMOs on the street, that would still result in a significant concentration of HMOs, the effects of which would be likely to extend to a wider area.
19. Policy H6 of the CS seeks to avoid harmful effects from high concentrations of HMO and achieving balanced and healthy communities. It also requires that proposals for new HMOs address relevant amenity and parking concerns. While there are no concerns generated associated with additional parking, it will be seen from my finding on the first main issue that it has not been demonstrated that other amenity concerns associated with high concentrations of HMOs including crime,

anti-social behaviour, noise and other disturbance are adequately addressed as is also required.

20. The HMO for which planning permission is sought has incrementally increased the number of HMOs in the area and would result in the loss of existing housing suitable for family occupation in an area of existing high HMO concentration.
21. This exacerbates the existing over concentration of such properties and the imbalance in the mix of housing in the area.
22. I accept the appellants submission that the HMO could assist in addressing growth in student numbers associated with local universities and that this can have positive economic benefits. I also note that the building is located close to the city centre with good access to service and facilities, including public transport. The appeal site is in an accessible location. In this regard I find no conflict with CS Policy T2. These considerations though are insufficient to outweigh the harm that I have identified in relation to impact on the sustainability of the local community and the resulting conflict with the development plan.
23. For the above reasons, the development is contrary to the provisions of the National Planning Policy Framework (the Framework) which, amongst other things, seeks strong, vibrant and healthy communities.
24. I conclude that the proposed development would have an adverse effect on the housing and population mix in the area and would therefore, undermine the balance and health of communities and result in the loss of a family home. As such, it would conflict with Policy H6 of the CS.

### **Other Matters**

25. With regard to the appeal at 19 Ash Grove, LS6 1AX<sup>1</sup> referred to by the appellant, I note that this was a retrospective application for a change of use from 6 bed HMO to 8 bed Sui-Generous HMO. This is a very different context to the current appeal in that the fallback position in this instance is that no consent exists for a HMO (Use Class C4). As a result, reference to it has not altered my overall findings in relation to this appeal.

### **Conclusion**

26. For the reasons given above, the development for which permission is sought conflicts with the development plan considered as a whole and there are no material considerations that outweigh this conflict. Therefore, the appeal is dismissed.

*F P Tinsley*

INSPECTOR

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<sup>1</sup> APP/N4720/W/22/3307977