



Appeal Decision

Site visit made on 6 May 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 June 2025

Appeal Ref: APP/C2741/W/25/3359830

85 Crombie Avenue, York YO30 6DW

- 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 P Cooper against the decision of City of York Council.
 - The application Ref is 24/00357/FUL.
 - The development proposed is conversion of detached garage to self-contained annexe living accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form differs from that in the decision notice. The Council states that the change in description was agreed via email exchange during the application process. The appellant has referred to the amended description in the appeal statement, therefore I consider the development to be as described in the decision notice and have quoted this in the banner heading.
3. During the course of the appeal, the Council adopted the City of York Local Plan, Plan Period 2017-2033 (Local Plan). This has resulted in some of the policies referred to in the decision being replaced by the newly adopted policies. I have determined the appeal on the basis of the most up-to-date development plan. The appellant has commented on the implications of the change.
4. The Council contends that the proposal requires a full planning application. Nonetheless, I have based my decision on the evidence before me. I have assessed the proposal in the context of the Certificate of Lawfulness (Council ref: 24/00833/CLU), granted for the existing dwelling for a small House in Multiple Occupation (HMO), within use class C4, for up to 6 occupants.

Main Issue

5. The main issue is whether or not the proposal represents annexe accommodation that is ancillary in function and amounts to living accommodation suitable for future occupants.

Reasons

6. The proposal relates to a detached double garage, sited at the rear of the appeal property's garden. The proposed accommodation comprises a single living area for use as a bed space, lounge, study area and dining/kitchen, with separate toilet

/ shower room and its own cycle storage. The resultant living accommodation would in effect be self-contained because any future occupant would not be reliant on the main dwelling for any aspects of day to day living, such as cooking, watching television or using the bathroom.

7. It is established in case law, that even if an outbuilding contains the accommodation to enable independent living, provided that there is a clear and functional link between the house and the outbuilding, then it is a matter of fact and degree whether an independent dwelling has been created.
8. During my site visit, I observed that the kitchen within the house is small with limited space to prepare food and sit at a table to eat, even for existing HMO occupants that are likely to use the space independently from one another. In addition, the closest access into the house from the garage is via a side door into a utility area serving a shower room and toilets. The route would then be through the small kitchen in order to access the lounge. This would be a convoluted route across the garden into the house via a toilet area. It would be particularly unattractive to use in dark wintery evenings or rainy conditions and I am not persuaded that the occupant of the accommodation would be incentivised to use it for such things as carrying food to prepare and eat in the house.
9. This is particularly the case given the nature of an HMO use where the occupants may not be known to one another. This lack of a household link would be a further disincentive to use the main house, particularly as the proposed accommodation has all the facilities required for day to day living.
10. The proposal is described as an annexe. The appellant's stance is that the occupant would share communal spaces of the main dwelling because the unit would be too small in floor area to be used as a separate studio flat. Also, that it may be permitted development by way of being ancillary. Whilst access to the main house may be available for the occupant, I am not persuaded that they would use it for the reasons I have previously given. Even if the occupant's living accommodation would be small in area, it is still self-contained. As such, a clear and functional link to the main dwelling has not been adequately demonstrated, and I consider the proposal to be a separate dwelling unit, not ancillary to the HMO.
11. The appellant states that the floor area of the accommodation would be 23.5 square metres, which is well below the Nationally Described Space Standard (NDSS) of 37 square metres for 1 bedroomed, 1 person dwelling unit with shower room. Whilst the NDSS is guidance only, it is a useful indicator of a suitable amount of habitable space for a future occupant. In this case, the space available for the future occupant would be unduly cramped, oppressive, difficult to fit furniture in or provide general circulation space.
12. Furthermore, the entire open-plan living space of the proposal would be served by only two windows. They would both face the kitchen window and two obscure glazed toilet windows of the main house, at relatively close quarters. The windows would also look out over the rear garden that serves the main property. Outlook for the future occupant would therefore be poor, and their privacy would be limited, this would be particularly acute as the occupant would spend much of their time in the space, for example to cook, eat, study and sleep.

13. For these reasons, I conclude that the proposed development does not represent annexe accommodation that is ancillary in function and does not amount to living accommodation suitable for future occupants. As such it conflicts with Policies D1 and H8 of the Local Plan. Amongst other things these policies seek new development to meet the highest standards of accessibility and inclusion, create buildings and spaces that are fit for purpose and provide a high standard of accommodation that does not detrimentally impact upon residential amenity, amongst other things. The Council also referred to Policy T1 of the Local Plan in its reason for refusal. This policy seems to be mainly focussed on reducing dependence on private cars, and the proposal would be in an accessible location and cycle storage is proposed. Consequently, I do not consider it relevant to the main issue, although this does not alter my findings.

Other Matters

14. I acknowledge the appellant's concern over the length of time of the planning application process, however the claim that this demonstrates that the proposal has not been correctly appraised is not supported with evidence. The timescale of the application is not a matter that I can consider in an appeal under Section 78 of the Town and Country Planning Act 1990. It does not alter my findings, in which I have had regard solely to the planning merits of the proposal.
15. I also acknowledge that the proposal is small-scale in an accessible location with space on site for cycle storage, in accordance with the relevant parameters of Policy T1 of the Local Plan. It would also not harm the appearance of the area, and the would be unlikely to unduly affect neighbours by way of noise and disturbance given distances between dwellings. Furthermore, the proposal would not amount to an overconcentration of HMO uses in the area. However, these factors do not outweigh the harm I have identified in respect of the main issue.

Conclusion

16. For the reasons given above, the proposal would conflict with the development plan as a whole. I therefore conclude that the appeal should be dismissed.

E Heron

INSPECTOR