



Appeal Decision

Site visit made on 6 May 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/C2741/W/25/3359807

153 Bad Bargain Lane, Heworth, York YO31 0PF

- 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 M Carter against the decision of City of York Council.
 - The application Ref is 24/01652/FUL.
 - The development proposed is change of use from 6 bedroom class C4 HMO to 8 bedroom HMO class Sui Generis.
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Decision

1. The appeal is allowed, and planning permission is granted for change of use from 6 bedroom class C4 HMO to 8 bedroom HMO class Sui Generis, at 153 Bad Bargain Lane, Heworth, York YO31 0PF in accordance with the terms of the application, Ref 24/01652/FUL, and the plans submitted with it, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plans, specifically: 'Existing and Proposed Plans' (766.001 rev D).
 3. Prior to first occupation of the approved use, secure cycle parking within the garage shall be provided in accordance with the approved plans. The cycle parking shall be kept available for its intended purpose at all times.

Preliminary Matters

2. 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 Council's decision notice 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 had an opportunity to comment on the implications of the change.

Main Issue

3. The main issue in this case is whether or not the proposed development would harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

4. The appeal property was substantially extended some years ago, following a grant of planning permission in 2002 (Council Ref 01/03391/FUL). The whole of the property can be lawfully used as a 6-bedroom HMO. As such, I am focussed on the increase in bedrooms from 6 to 8 (i.e. increased occupancy).
5. The appeal site is a semi-detached property. It has six bedrooms, three bathrooms, a large kitchen-diner, lounge and garden. From my site visit I found the appeal property to be well-maintained, large, light and spacious with good sized communal rooms and circulation spaces. I also found the hard-surfaced front area large enough to accommodate several cars in a manner that allows them to be manoeuvred independently from one another without conflict, and without blocking the garage door. There is also sufficient space for on-site bin storage and cycle parking.
6. The modifications to the property include changes to the internal layout, reducing the size of some bedrooms and changes to bathroom arrangements in order to accommodate two extra bedrooms. The communal lounge and large kitchen/diner would be unaltered. I note that the Council concluded that the proposed internal arrangement meets space requirements, and availability of on-site car parking is acceptable. From my own observations, I agree with this assessment. I therefore consider that the proposal would not amount to over-intensification of the property as there is space for eight occupants and their guests without the accommodation being cramped, thus reducing the likelihood for conflict.
7. I am told that prior to the HMO usage, the appeal site was occupied by a family with an elderly relative residing in the annexe, and that since the dwelling was altered to an HMO, there is now noise emanating from the property. That may be the case, however, a different, less quiet, large household could have occupied the extended dwelling prior to its HMO use, with no restrictions on their comings and goings or noise emanating from their associated domestic activities. In any case, the approved use of the property has now changed to that of a 6 bed HMO.
8. Furthermore, the number of bedrooms that share the party wall with the attached neighbouring property will not increase as a result of the proposed development, and the flat roof of the garage would not be used as a balcony. Even with the potential increase of guests for two additional occupants, it has not been clearly demonstrated to me that the intensity of noise emanating from the property as a result of the proposed development, would be so substantively altered as to be unduly harmful in respect of noise and disturbance.
9. There will be a modest increase in comings and goings from the property, for example for travelling to work or university. However, occupants are unlikely to all travel at the same time, given their differing lifestyles and activities, there is sufficient capacity for parking on site and in the vicinity without causing conflict, and other modes of transport including cycling is available. Therefore, I consider that the intensity of disturbance, over and above the existing approved use, would be limited.
10. Accordingly, and in the absence of substantive evidence to the contrary, I conclude that the proposed development does not amount to over-intensification of use such that it would unduly harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance. As such, the development accords

with Policies D1 and ENV2 of the Local Plan. These policies require the highest standards of accessibility and inclusion, the creation of buildings and spaces that are fit for purpose, and ensures residents are not unduly affected by matters such as overlooking and noise, amongst other things.

Other Matters

11. I have taken account of the additional concerns raised by local residents. A contractor entering private land without permission is noted, but as this is unrelated to the use of the property, that in itself would not weigh against allowing the appeal. Construction noise is a short-term issue, and whilst it is accepted that it can be disruptive, I have based my assessment on the increase in occupancy of the property, rather than any building work to facilitate the proposed use.
12. The appeal site is close to a bus stop. I am told that routes do not provide convenient access to the university and do not include an evening service. This weighs against the proposal. However bus services run to the city centre, and the proposal includes designated space for bicycles. Furthermore, there is capacity locally for on-road parking, and as such this matter does not outweigh my findings in relation to the main issue.
13. The bedroom in the attic is served by three rooflights. From my site visit I found the room to be well lit with natural light, and only a short flight of stairs separates it from the lower floor and nearest bathroom. This room does not alter as part of the appeal proposal. The building has ample space for additional occupants, and each room is capable of being ventilated by a window, or mechanically, in respect of the bathrooms. I therefore have little in the way of compelling evidence that the proposal would give rise to ill health conditions.
14. The gravel surfaced parking area would impede wheelchair access. I have had due regard to the Public Sector Equality Duty in considering this issue. There is no evidence before me to suggest that the existing HMO or the proposed use, is intended for disabled users. Indeed, there is stepped access into the property itself. Accordingly, I do not consider that harm has been created through the use of gravel. Whilst this issue carries moderate weight, I am satisfied that reasonable adjustments could be made in the future if needs be, and as such this does not outweigh my conclusions on the main issue.

Conditions

15. The Council has not recommended any conditions. However, it is necessary to include the standard time limit on the commencement of development, along with the requirement for the development to be carried out in accordance with approved plans, in the interests of certainty.
16. To encourage sustainable modes of transport and to accord with policy T1 of the Local Plan, it is necessary to impose a condition requiring the provision of the cycle parking in accordance with the approved plan and to ensure this is provided before the proposed development is occupied.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed.

E Heron

INSPECTOR