



Appeal Decision

Site visit made on 23 July 2025

by **A O'Neill BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Appeal Ref: APP/W2465/W/25/3365750

281 Fosse Road South, Leicester LE3 1AE

- 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 Dr Michael Ghebre, Micab Consulting Ltd against the decision of Leicester City Council.
 - The application Ref is 20250270.
 - The development is change of use of dwellinghouse (Class C3) to house in multiple occupation (HMO) for 7 persons (Sui generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal in the banner heading above is taken from the decision notice which is the same as the appeal form. However, reference to 'retrospective' in the description is not a form of development. I have therefore amended the description accordingly. During my site visit I saw that the development has already been carried out.
3. The Council's reason for refusal refers to Policy Ho10 in the emerging Leicester Local Plan (the emerging LP). The Council's statement of case confirms the emerging LP is at Main Modifications consultation stage and that no modifications are proposed to Policy Ho10. Given the advanced stage of the emerging LP and based on the information before me, I give significant weight to Policy Ho10, in accordance with paragraph 46 of the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are the effect of the development on:
 - the character of the area with regards to the mix and balance of housing; and,
 - the living conditions of neighbouring occupiers.

Reasons

Character

5. The appeal property is a large, detached house located at the corner of Fosse Road South and Imperial Avenue in a predominantly residential area. The property

was previously used as a vicarage for the Holy Apostles Church which is located on the opposite side of Fosse Road South.

6. Policy CS06 of the Leicester City Local Development Framework Core Strategy (2014) (the CS) sets out the City's housing strategy. The policy states that conversion of existing large houses will be resisted where it would still be appropriate for family use and meet an identified demand. It also requires that conversions do not have an adverse impact on the character of the area or the maintenance of mixed communities. Additionally, Policy CS08 of the CS seeks to retain larger houses appropriate for family use in inner city areas and states that new HMOs will not be permitted where they would result in a local over concentration.
7. Emerging LP Policy Ho10 sets a similar approach to the provision of HMOs and states they should not have an adverse impact on the character of the area and requires that a mixed and balanced community be maintained. It also requires that the existing proportion of HMOs and other non-family housing within the area does not amount to a significant concentration.
8. The site is in an area which is subject to an Article 4 Direction (Article 4(1) of the Town and Country Planning (General Permitted Development (England) (order) 2015, as amended) which removes permitted development rights relating to change of use from Use Class C3 dwellinghouse to Use Class C4 house in multiple occupation (The Town and Country Planning (Use Classes) Order 1987, as amended). It is the Council's case that the Article 4 Direction is demonstration that an over-concentration of HMOs has already occurred, and that this is significant, relative to other parts of the city, and harmful to the character of the area.
9. The Article 4 Direction was informed by a Report entitled 'Review of Article 4 Directions relating to Conversion of Houses (Class C3) to Class C4 Small Houses in Multiple Occupation' (2021) (the Article 4 Direction Report). This identifies the potential harmful effects resulting from HMOs as imbalanced, less inclusive and unsustainable communities which impacts social cohesion and reduces the mix of housing available within an area. It further states that these effects are intensified in locations where HMOs have become concentrated.
10. The appeal site is within the Braunstone Park and Rowley Fields Ward where, at the time of the Article 4 Direction Report, 7% of properties were recorded as HMOs. This is similar to the city average of 6.8%. However, the boundaries for the Article 4 Direction Area are based on smaller, Lower Super Output Areas (LSOAs), where HMOs make up 10% or more of total housing stock, rather than wards. The appeal property is in a LSOA where, at the time of the Report, over 20% of the housing stock was HMOs. This is considered a very large proportion and amounts to a significant concentration. An additional HMO in this location would therefore exacerbate the concentration of HMOs, causing further harm to the mix and balance of housing in the area.
11. The appeal property is located close to the boundary of the Article 4 Direction Area. The appellant contends that the appeal property, relates better to the parts of Braunstone Park and Rowley Fields Ward which are outside of the Article 4 Direction area, rather than the nearby high density terraced properties which are within it. Be this as it may, the property is within the Article 4 Direction boundary

which is defined according to the concentration of properties in HMO use. Therefore, this consideration does not alter my conclusion on this matter.

12. Comparisons have been drawn with another site within the Article 4 Direction boundary on Vernon Street where a proposal for a HMO was dismissed at appeal (Appeal reference: APP/W2465/W/24/3351103, 16 January 2025). Vernon Street is within the Fosse Ward which the Article 4 Direction Report identifies has 12.98% of properties as HMOs. I appreciate this is higher than that in Braunstone Park and Rowley Fields Ward, however both properties fall within the boundaries of the Article 4 Direction area, which is based on the concentration of HMOs in LSOAs. As such, this consideration does not lead me to a different conclusion on this matter.
13. Furthermore, the development would result in the loss of an existing large house. The appellant suggests that there is minimal demand for 6 or 7 bedroom houses. However, it is unlikely that if the property were occupied by a single family, it would be used in the same way as a HMO and it would therefore likely have less bedrooms. Nevertheless, the Council's Local Housing Needs Assessment identifies there is a need for dwellings with 4 and more bedrooms in the city (Leicester City Local Housing Needs Assessment: Update 2021 Report of Findings, February 2022).
14. It is suggested that the building is unsuitable as a family home due to its current layout and that it would be difficult to market for rent or sale, as a single family dwelling because it is not in keeping with surrounding properties and due to traffic issues. It is also stated that the property has been underutilised in the past and has not been occupied since 2020. However, these points have not been further substantiated. Based on the information before me and my observations on site, I have no reason to believe the property would not be appropriate for family use.
15. Taking all of the above into account, I find that the development would harm the character of the area with regards to the mix and balance of housing. As such, it conflicts with Policies CS06 and CS08 of the CS and Policy Ho10 of the emerging LP, as set out above.

Living Conditions

16. The Council's reason for refusal refers to harm to the amenity of existing residents in the area. It is not explained precisely what is meant by this in the context of this development, but the Council states that the site is in an area where there is a relatively high occurrence of noise complaints and fly-tipping. The Article 4 Direction Report identifies issues associated with HMOs including noise and disturbance associated with intensification of the residential use and/or the lifestyle of occupants, and poor waste management.
17. A 7 person HMO is likely to operate quite differently to a single family dwelling. Occupants would be likely to have their own individual routines and carry out activities independently of other occupants. This would be unlike a family who would be more likely to do shared activities. Consequently, there are likely to be more comings and goings which could result in noise and disturbance to neighbouring occupiers.
18. Whilst the property shares boundaries with 279 Fosse Road South and 25 Imperial Avenue, the building itself is detached. The front door to the building is located

some distance from these neighbouring properties. The appeal property's vehicular access and parking area is also separated from 279 Fosse Road South by that property's own driveway. As such, although a 7 person HMO is likely to result in a more intensified residential use compared to single family use, this would not, in my judgement, adversely affect the living conditions of neighbouring occupiers by reason of noise and disturbance.

19. During my site visit, I saw provision was made for waste storage within the appeal site and I did not see any evidence of fly-tipping in the vicinity of the site. Therefore, there is little substantive evidence before me that waste management presents a problem at this site.
20. I therefore find that the development would not harm the living conditions of neighbouring occupiers. As such, I find no conflict with Saved Policy PS10 of the City of Leicester Local Plan (2006) (the LP) insofar as it seeks a quality living environment for residents taking account of noise caused by development and potential litter problems.

Other Matters

21. I understand from the appellant's submission that there was a housing crisis called in the City, and it is accepted that there is a need for a mix of housing types, including HMOs. Occupants would have access to some local services which represents minor social and economic benefits to the scheme. I have also taken into account the letters of support for the HMO use, including that from a local homelessness charity. However, the positive weight afforded in those respects is outweighed by the fact an additional HMO in this location would further harm the mix and balance of housing in the area and there is also an identified need for large family dwellinghouses.
22. I appreciate that the property benefits from a HMO licence, however, this does necessarily not make the use acceptable in planning terms.
23. I note that the appeal building is a locally listed building, due to its architectural merits. As the external appearance is unaltered by the appeal scheme, I consider the development has a neutral impact and the significance of the building as a non-designated heritage asset is preserved.

Planning Balance

24. The development is contrary to CS Policies CS06 and CS08 and emerging LP Policy Ho10. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. These policies are consistent with the National Planning Policy Framework (the Framework) insofar as they seek to ensure development meets identified housing need, including with an appropriate mix of housing types. Therefore, the conflict between the proposal and policies CS06, CS08 and Ho10 should be given significant weight in this appeal. As the proposal would be contrary to these policies, there would be a conflict with the development plan as a whole.
25. It is common ground between the parties that the Council cannot currently demonstrate a five year supply of deliverable housing sites. In these circumstances, footnote 8 of the Framework establishes that paragraph 11d) is

engaged. There is nothing before me to suggest that the policies identified in footnote 7 of the Framework provide a strong reason for refusing the development proposed under paragraph 11 d) i). Hence, the balance in paragraph 11 d) ii) applies.

26. Paragraph 11 d) ii) states planning permission should be granted unless 'any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole...'. Measures set out to achieve an appropriate amount and mix of development in paragraph 135 constitute key policies for the purposes of paragraph 11 d) ii).
27. The Council has confirmed that it currently has 2.8 years supply of deliverable sites and this is not disputed by the appellant. The development would contribute to housing choice in Leicester City and, as set out above, would deliver minor social and economic benefits. However, it would replace one form of housing with another which would not result in a net increase in the supply of dwellings.
28. The aforementioned benefits are afforded limited weight and would be significantly and demonstrably outweighed by the adverse impacts when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

29. Although I found there would be no harm to the living conditions of neighbouring occupiers, I have found that the proposal would result in harm to the character of the area with regards to the mix and balance of housing. Consequently, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A O'Neill

INSPECTOR