
Appeal Decision

Site visit made on 7 October 2025

by **P Brennan BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 October 2025

Appeal Ref: APP/T3725/W/25/3366726

Flat 1, 37 Clemens Street, Leamington Spa CV31 2DP

- 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 Gavin Beasley against the decision of Warwick District Council.
 - The application Ref is W/23/1809.
 - The development proposed is described as: Change of use from C3 single dwelling to C4 House in Multiple Occupation (HMO).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has amended the description of development from that seen on the application form. The description outlined in the heading above aligns with the Council's description and removes elements from the description which are not development or are superfluous.
3. The application form states that the development was undertaken in November 2023 but that the property has been rented since 2000 as either a single dwelling or as a House in Multiple Occupation (HMO). However, without the benefit of either planning permission or a certificate of lawfulness, I can only attach limited weight to the appellant's assertion that the use is already taking place.
4. Although the change of use of a dwelling house (Use Class C3) to a house in multiple occupation (HMO) for between 3 and 6 residents (Use Class C4) is "permitted development" under Part 3 Class L of Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, Warwick District Council introduced an Article 4 Direction in April 2012 that requires planning permission to be obtained for such changes of use. The appeal site sits within the Article 4 Direction area. Consequently, there is no dispute between the parties that planning permission is required for the proposal.

Main Issue

5. The main issue is whether the development results in an overconcentration of HMOs in the area and its effect on the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

6. The appeal property is a three-bedroom flat within a part three, part four storey terraced building, which is capable of accommodating a family. The property is in a

mixed-use street, of commercial and residential uses, within walking distance of Leamington Spa town centre.

7. Policy H6 of the Warwick District Local Plan 2011-2029 (2017) (LP) identifies that planning permission will only be granted for houses in multiple occupation where it meets five criteria. These include, amongst other things, that the proportion of HMOs (including the proposal) should not exceed 10% of the total number of dwellings within a 100m radius. However, exceptions to the policy may be made where the property is located on college/university campuses or is on a main thoroughfare in a mixed-use area.
8. The Council's evidence shows that 18.6% of the properties within 100m of the appeal site are HMOs, more than the 10% limit set by Policy H6 of the LP. With the inclusion of the appeal property this would increase to 19.1%. This assertion has not been challenged by the appellant who acknowledges that there is an over-concentration within the area and based on what I have seen and the evidence before me, I have no reason to believe that these figures are inaccurate.
9. The appellant considers that the appeal site meets the exception test within the policy as the site is located on a 'main thoroughfare in a mixed-use area.' However, the explanatory text to this Policy identifies main thoroughfares as classified 'A' and 'B' roads. Clemens Street is a classified 'C' road and is therefore not regarded as an exception to this policy.
10. The appellant has drawn my attention to a planning decision (W/19/0727) relating to Flat 2, 37 Clemens Street that was approved in July 2019. However, no further details are provided. Whilst the location of the two properties is similar, I am not aware of the percentage of HMO properties within 100m of the site at the time planning permission was granted and this may have been lower than the current identified percentage. As such, I cannot be certain that the previous scheme was approved in the same planning context to weigh in favour of the appeal development.
11. Furthermore, the Council issued 'H6 guidance' in September 2019 that provided clarification regarding the definitions of a 'main thoroughfare' and 'mixed-use'. This guidance was published after the planning decision was made relating to Flat 2. From my visit, Clemens Street appears to accord with the description of a mixed-use area and some of the main thoroughfare characteristics outlined in the H6 guidance and identified by the appellant in their final comments. These include levels of traffic, bus stops, and street furniture. However, whilst the guidance outlines the attributes of a main thoroughfare, its assessment criteria is still based on the road being classified 'A' or 'B.'
12. Also, the appeal property is sat between two existing HMOs which is not supported by LP Policy H6 and the HMO within Flat 1 would also lead to a continuous frontage of 3 or more HMOs which would also be contrary to the policy.
13. For the above reasons, the proposal does not meet the exception criteria. The proposed HMO within Flat 1 would lead to an over concentration of sub-divided properties. This would harm the living conditions of nearby residents and would exacerbate adverse impacts in relation to noise and disturbance, harm to social cohesion and anti-social behaviour. As such, whilst the appeal property is sat between two HMOs, the limitation on HMOs imposed by LP Policy H6 must prevail. This is necessary to maintain the desired housing mix, prevent further

clusters of HMOs, protect adverse impacts on neighbouring amenity, and protect the character of the area. Consequently, the development conflicts with Policy H6 and BE3 of the LP, which seek to protect residential living conditions.

Conclusion

14. For the reasons given above the appeal should be dismissed.

P Brennan

INSPECTOR