



Appeal Decision

Site visit made on 7 October 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 November 2025

Appeal Ref: APP/X4725/W/25/3369626

14 Avondale Street, Wakefield WF2 8DP

- 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 Ryan Beaumont of Beaumont & Partners Ltd against the decision of Wakefield Metropolitan District Council.
 - The application Ref is 24/00551/FUL.
 - The development is the proposed change of use from ground floor hot food takeaway (use class sui generis) and ground/first floor residential apartment (use class C3) to HMO (use class sui generis) including demolition of existing garage/store and erection of two storey extensions to the rear and side.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed change of use from ground floor hot food takeaway (use class sui generis) and ground/first floor residential apartment (use class C3) to HMO (use class sui generis) including demolition of existing garage/store and erection of two storey extensions to the rear and side at 14 Avondale Street, Wakefield WF2 8DP in accordance with the terms of the application, Ref 24/00551/FUL, and subject to the conditions in the attached schedule at the end of this decision.

Applications for costs

2. An application for an award of costs has been made by Mr Ryan Beaumont of Beaumont & Partners Ltd against Wakefield Metropolitan District Council; this is the subject of a separate decision.

Preliminary Matters

3. The description of development referred to above has been taken from the Council's notice of decision, as the appellant has stated their agreement for it to be changed from that originally stated on the application form.
4. Both main parties have referred to an earlier appeal decision¹ at the appeal site (the earlier appeal decision), but neither has provided a copy of it. Nevertheless, I have obtained a copy of that decision, which I am content is the same decision that is referred to by the main parties, and I have taken it into account insofar as it is relevant to this appeal.
5. The appellant has said in their supporting information that they would accept a condition to limit the occupation of the proposed House in Multiple Occupancy (HMO) to 8 no. occupiers. The appeal has been determined on this basis.

¹ Ref: APP/X4725/W/23/3316102

Main Issue

6. The main issue is whether future occupiers would have satisfactory living conditions, with particular regard to outdoor space provision.

Reasons

7. The appeal property occupies a corner location facing onto Avondale Street, with its side elevation fronting Tew Street. The proposed extensions and alterations seek to create an 8-no. bedroom HMO. Along its narrow frontage facing Avondale Street, an area of planting is proposed between it and the pavement, and a shared area of external amenity space is proposed to the rear of the appeal property, partly behind 2 no. parking spaces and up to the boundaries with no. 16 Avondale Street and no. 1 Tew Street. In total the area of external amenity space is said to measure some 40 square metres or so, it is also separate from the adjoining cycle and bin store areas.
8. The main parties agree that relevant planning policies do not set a precise area of private amenity space for HMO developments, a subjective judgement is therefore needed to assess both the size and quality of such an area. I note the earlier appeal decision related to a 10-no. bedroom HMO, with up to 14 no. occupiers, and that the private amenity space was made up of several small areas which was said to be disjointed, resulting in a substandard size, incoherent layout and was found to be unsuitable. The subsequent amendments made to the layout of this proposed development, have sought to address those comments by increasing the size of the private amenity space and consolidating it as mainly one area. In this respect, the proposed development is significantly different to that assessed on the earlier appeal decision, because of its altered layout, and that it is for a lesser number of HMO rooms and future occupiers.
9. Subject to a condition regarding boundary details, the location of the proposed external amenity space behind the parking areas, existing boundary fences and other structures, would be private. Its size and shape would offer future occupiers meaningful and useable space that would not give rise to cramped living conditions. The shared outdoor space could be used for drying clothes and relaxing, and it would likely be able to satisfactorily accommodate all future 8no. occupiers at the same time, if necessary, without being used overly intensively. Overall, the proposed space, subject to conditions as appropriate, would be high quality and functional that would offer future occupiers' adequate private outdoor space provision. Furthermore, the amendments made following the earlier appeal decision have satisfactorily addressed the previous Inspector's concerns in this respect.
10. The nearby public open spaces (Millennium Gardens and Clarence Park) offer future occupiers access to significant open areas of landscaped space, which would no doubt be a benefit to future occupiers. Although even without them, the proposed development would still provide satisfactory living conditions for future occupiers.
11. The Council said as a benchmark it would expect 75 square metres of private amenity space for a small dwelling and 100 square metres of such space for a larger dwelling. It is unclear on what basis this benchmark has been calculated or if it is set within any local planning policy. Moreover, as the Council accept, an HMO use can be a much different that of a dwelling, as they mostly have shared

facilities, sometimes having transient occupation, and often in well-connected areas where private amenity space can be restricted. I am not persuaded that it would be reasonable or appropriate to apply what the Council consider to be a benchmark for dwellings, to the proposed HMO use in this case. In addition, I have not been made aware of any conflict with the Council's HMO licensing requirements in respect of external private amenity space requirements.

12. I therefore conclude that the proposed development would provide future occupiers with satisfactory living conditions and would comply with Policies LP4 and LP56 of the Wakefield District Local Plan 2036 adopted January 2024, insofar as they require development not to have a significant detrimental impact on the amenities of future occupants and that adequate provision for communal outdoor areas is provided. The proposed development would also comply with paragraph 135 of the Framework. insofar as it requires a high standard of amenity for existing and future users.

Other Matters

13. Both main parties have made me aware of the planning history relating to the appeal site, which I have taken into account insofar as it relates to the appeal scheme before me.
14. There have been comments made by interested parties and others, relating to residents and visitors to neighbouring occupiers that between them have a range of different physical and mental conditions, which make them more sensitive to the effects of the proposed development. The concerns raised mainly relate to the effects of the proposed HMO use, particularly the increased parking in the immediate area (including the potential difficulty of visiting carers obtaining a parking space and access for emergency service vehicles), and from construction disturbance. Based on the information before me, it indicates to me that these occupiers and visitors have protected characteristics.
15. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires decisions ensure respect for private and family life and the home, as well as Article 1 of the First Protocol relating to the protection of property, which are also engaged in this case. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights, and interference may be justified in the public interest. The concept of proportionality is key.
16. I recognise the paramount importance of the rights of neighbouring occupiers to have their property, home, private, and family life respected and this is a primary consideration, including how they are affected by visitors to their properties. Any adverse effects experienced from the appeal proposal could interfere with the neighbouring occupier's rights in respect of their property, home, private, and family life. Any such impacts would weigh against the proposal in these respects.
17. Parking on the public highway is not an automatic right, it is noted that the area is within a controlled parking zone, where parking permits are required to park at certain times and whether or not the total number of permits exceed the available

spaces, the Traffic Regulation Order relating to it is under the control of the Council, who have not required future occupiers of the appeal property be excluded from obtaining such a permit. Although only a snapshot in time I saw on my site inspection, during the late morning, that there was plenty of available parking spaces on Avondale Street and Tew Street, and on neighbouring roads. The designated on-street parking areas allow traffic to move along both streets, and at the junction between Tew Street and Avondale Street, any obstruction of the public highway would be a matter for the relevant enforcing authorities.

18. There are also 2 no. off street parking spaces proposed along with secure cycle parking. Whilst I do not dispute the concerns of residents and others, I am not convinced that the additional occupiers would unacceptably add to any parking stress in the area, including my own site observations.
19. It is accepted that there would be some, disruption to neighbouring occupiers from construction works and traffic movements, if the appeal were to be allowed, although these would be for a temporary period. The use of a construction management plan condition could be imposed to minimise such impacts, particularly regarding parking and delivery areas associated with construction works, delivery times, dust, hours of work, noise, and vibration. Whilst this would not remove the effects of construction works, it would ensure that they were mitigated as far as reasonably practical.
20. In terms of the comments about the use of the HMO, including the possibility of anti-social behaviour; potential noise and disturbance; and public safety matters, there is no substantive evidence provided to support such views. A condition requiring a management plan for the HMO, requiring the communal areas are kept clean and tidy and ensuring there is a framework for addressing any anti-social behaviour, together with a condition limiting it to 8 no. occupiers, should help to ensure the HMO is operated in a way that minimises any such issues.
21. Having regard to the above, and the legitimate and well-established planning policy aims in respect of providing housing in well-connected areas and protecting living conditions, a refusal of planning permission relating to its impact on highway safety and the living conditions of existing occupiers and their visitors, would not be proportionate and necessary on the information before me, or consistent with the requirements of the HRA and my PSED duty contained in Section 149 of the Equality Act 2010.
22. I have also had regard to objections from local residents and others received in addition to the issues above, including but not limited to, the effect of the proposed development on the living conditions of neighbouring occupiers; its effect on the character and appearance of the area, including its density and existing HMO's nearby; air quality effects and how it would affect the health and wellbeing for local residents; highway safety; refuse storage facilities; the loss of the existing accommodation; flood risk and drainage; the size of the accommodation; the effect on local services; and fire safety. Whilst I can understand the concerns, subject to planning conditions as appropriate, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I also have no substantive evidence that the Council has not publicised the application appropriately in accordance with its requirements.

23. It is unclear how, if at all, the proposed development would affect the value of housing stock nearby, as such I have not been able to attach any weight to that point. Similarly, should a party wall to a neighbouring property be altered because of the proposed development, this would likely be a separate civil matter that would be controlled through other legislation. Finally, I note the comments about low water pressure in the area. However, it is not certain what has caused this, and it is by no means clear that the proposed development would materially affect water pressure, which would likely be a separate matter for the service provider should it be found to be unacceptable.

Conditions

24. A standard implementation condition has been imposed (1), along with a condition listing the approved plans (2), to provide certainty over what has been approved.
25. To protect the living conditions of neighbouring occupiers, a condition (3) is necessary in respect of a Construction Management Plan.
26. A condition (4) is necessary to ensure refuse and recycling facilities in accordance with those shown on the approved plans are provided so future occupiers have satisfactory living conditions and to protect the character and appearance of the area. To ensure future occupiers have access to sustainable travel options a condition (5) is necessary relating to secure cycle parking, in accordance with those details shown on the approved plans.
27. Following the comments of the Designing out Crime Officer and interested parties, a management plan condition (6) is necessary to ensure the safety of future occupiers and to protect the living conditions of neighbouring occupiers, should any unacceptable noise and anti-social behaviour issues arise. Similarly, a condition (7) limiting the occupation of the HMO to no more than 8 no. occupiers is reasonable and necessary given the size of the communal areas, on-site parking arrangements and to protect the living condition of neighbouring occupiers.
28. To ensure the development does not harm the character and appearance of the area, a condition is reasonable and necessary to require the external appearance of the proposed development matches the host building (9). A condition (8) is also necessary to secure the on-site parking spaces, to reduce the need for future occupiers to park on the highway. Although as these parking areas were already largely hard surfaced, I was not convinced the condition needed to require them to be drained.
29. In addition, a condition (10) is required to ensure adequate boundary treatment is provided, to protect the character and appearance of the area, and to provide satisfactory living conditions for existing and future occupiers. Finally, a condition (11) is reasonable and necessary to ensure the outdoor communal spaces are landscaped, and appropriate planting is undertaken within them, to ensure the areas are high quality, functional spaces that provide satisfactory living conditions for future occupiers.

Conclusion

30. The proposed development accords with the development plan when taken as a whole and there are no other material considerations, including the provisions of the Framework and the matters raised by interested parties, which outweigh this

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

A Hunter

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no's PL355 rev C (proposed site and location plan); PL250 rev E (proposed ground and first floor); PL300 rev B (proposed elevations and roof plan); and cycle parking specification - Easi-Riser 2-Tier Cycle Rack by broxap.

3) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:

- areas for the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of any security hoarding;
- measures to control noise, and the emission of dust and dirt during construction; and,
- delivery, demolition and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

4) Prior to the first occupation of the development hereby approved, refuse and recycling storage facilities shall be provided in accordance with the details shown on drawing ref. PL355 rev C. Thereafter the refuse storage facilities shall be retained in perpetuity for their intended purpose.

5) Prior to the first occupation of the development hereby approved, secure cycle parking shall be provided in accordance with that shown on drawing ref. PL355 rev C and the Easi-Riser 2-Tier Cycle Rack by broxap. Thereafter these secure cycle parking areas shall be retained in perpetuity for this use and not used for any other purpose.

6) Prior to first occupation of the development hereby approved, a management plan for the HMO and a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include details of how internal and external communal areas including parking areas, bin storage and cycle storage areas are managed and maintained; external lighting details and

maintenance; CCTV provision; the security measures for windows and doors; and a framework to manage any unacceptable behaviours by occupiers of the HMO, such as noise, disturbance and anti-social behaviour, including an agreed point of contact for any such complaints. The approved management plan shall be fully implemented in accordance with the approved details and timetable and thereafter retained for the lifetime of the development.

7) The HMO hereby approved shall not be occupied by more than 8 no. residents at any one time.

8) The parking areas shown on drawing no. PL355 Rev C shall be fully formed and available for use prior to the first occupation of the development hereby approved and shall thereafter be retained in perpetuity for that use and not used for any other purpose.

9) The external materials used in the development hereby approved shall match those external materials on the existing building in terms of their type, colour, and texture and shall be retained as such thereafter.

10) Prior to the first occupation of the development hereby approved, full details of the boundary treatments to all sides of the appeal site shall be submitted to and approved in writing by the Local Planning Authority, together with a timetable for implementation. The details shall include the height, design, and finish of any wall(s) or fence(s). The boundary treatments shall be undertaken in accordance with the approved details and timetable and retained as such thereafter.

11) Prior to the first occupation of the development hereby approved, precise details of the external communal space shall be submitted to and approved in writing by the local planning authority. The details shall include a full specification of all hard and soft landscaping, together with a timetable for their implementation. The specification of the soft landscaping shall include the quantity, size, species, and positions or density of all trees and planting, as well as how they will be planted and protected, and the proposed time of planting. The development shall be undertaken in accordance with the approved specification of both hard and soft landscaping details. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

End of Schedule of Conditions