



Appeal Decision

Site visit made on 3 February 2026

by **A Caines BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 February 2026

Appeal Ref: APP/C2741/W/25/3376338

44 Kyme Street, York YO1 6HG

- 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 Jamie Stuart (Stuart Construction) against the decision of City of York Council.
 - The application Ref is 25/01152/FUL.
 - The development proposed is described as “Velux roof lights: x2 front, x1 rear. Conversion of loft space to create 4th bedroom, and the change of use of the property from C3 to C4.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A previous appeal relating to the change of use of the property to a C4 House in Multiple Occupation (HMO)¹ was dismissed in March 2025 on grounds relating solely to the effect of a proposed rear dormer on the character and appearance of the Central Historic Core Conservation Area.
3. The current appeal proposes no dormer and differs materially in its internal layout. I have therefore assessed it on its own merits. The previous decision is relevant only insofar as it establishes that the principle of C4 use at the site is acceptable, and that rooflights alone were not considered harmful. It does not assist with the issues that now form the basis of the Council’s refusal.

Main Issues

4. The main issues in this appeal are:
 - Whether the development would provide acceptable living conditions for its occupants, having particular regard to the adequacy and functionality of the kitchen and dining facilities;
 - Whether the proposal demonstrates that suitable and convenient cycle storage can be provided within the site to support sustainable travel.

Reasons

Living conditions

5. The appeal site is a modest two-storey, mid-terrace property with a small rear yard. The proposal would create four bedrooms over three floors, with the

¹ APP/C2741/W/24/3353477

ground-floor kitchen and dining room operating as the only communal area within the property.

6. The Nationally Described Space Standards (NDSS) do not apply to HMOs and should not be used as determinative criteria. Nonetheless, internal functionality and usability remain legitimate planning considerations for all forms of housing. In HMOs, shared spaces perform an essential function because unrelated individuals do not benefit from the shared routines typical of a single household. This increases the importance of providing workable, accessible and sufficiently spacious communal facilities. The concern in this case stems from practical limitations in circulation, work surface area, and the ability of multiple occupants to prepare meals simultaneously in the kitchen, not in relation to NDSS metrics.
7. The plans and evidence indicate that the kitchen would be limited to around 5 square metres, which the Council's Housing Standards officer advises is not of sufficient size for a HMO occupied by 3-7 people, notwithstanding that the dining room is of adequate size. It is reasonable to expect that the kitchen's narrow footprint and configuration would create congestion at peak times, limiting the ability of residents to cook, store food or use appliances simultaneously. It is also unclear from the drawings how key appliances and sufficient storage would be accommodated without further compromising circulation. The absence of a dedicated communal living room heightens reliance on the kitchen/dining space as a central area for social interaction and informal gathering, increasing the need for a functional kitchen capable of serving all residents without conflict, discomfort or unreasonable delay.
8. Although the combined floor area of the kitchen and dining room meets or exceeds local guidance for shared communal living/dining provision, the dining area cannot offset the functional limitations of the kitchen itself, which must accommodate preparation, cooking and storage activities essential to day-to-day living. The appellant has not demonstrated that the kitchen would operate satisfactorily as a shared facility. Given the confined footprint of the ground floor, there is no clear or realistic scope to enlarge or reconfigure the kitchen in a manner that would overcome these concerns through the imposition of conditions. The cramped kitchen configuration is therefore contrary to Policy H8 iii) of the City of York Local Plan 2025 (YLP), which requires accommodation to be of a high standard which does not detrimentally impact upon residential amenity.
9. I do not share the Council's concerns in relation to bedroom sizes given the misplaced reliance on the NDSS and the confirmation in the Housing Standards consultation responses that bedroom sizes appear to meet the minimum standard for HMOs. However, this does not alter or outweigh the identified concerns regarding the functionality and adequacy of the kitchen area.
10. I therefore conclude that the development would not provide acceptable living conditions for its occupants with particular regard to the adequacy and functionality of the kitchen area, contrary to Policy H8 iii) of the YLP.

Cycle storage

11. Policy T1 of the YLP seeks to maximise the use of sustainable travel modes, requiring development to provide sufficient convenient, secure and covered cycle storage. Policy D1 of the YLP requires development to maximise sustainability

potential. The site's proximity to public transport and local services does not diminish the requirement to provide suitable on-site cycle storage.

12. The block plan indicates that a cycle store would be positioned in the rear yard, with access via the private rear alleyway. This arrangement would enable cycle movement without passing through the building.
13. However, the plans do not include elevations, floorplans, or internal dimensions of the proposed cycle store. It is only shown schematically and labelled as containing "4no Sheffield hoops". There is no information on height, clearances, internal width, door arrangements, or the capacity to accommodate adapted cycles for people with reduced mobility, or other non-standard cycles like tricycles or cargo carrying models. In order to maximise sustainable travel, cycle storage must be usable by all potential occupants, including those who may depend on non-standard cycles.
14. In the absence of such details, it is not possible to determine whether four cycles can comfortably be stored, accessed, and removed; whether cycle storage and refuse bins could coexist within the small yard without conflict; or whether the arrangements would encourage or inhibit cycling. These matters are particularly significant in the context of a HMO use, where differing occupant schedules and storage needs can magnify operational shortcomings. The lack of any elevations or materials also prevents assessment of the store's design quality or its effect on the character or appearance of the conservation area.
15. While the appellant argues that such details could be addressed by condition, the absence of any substantive information leaves uncertainty about whether a compliant solution is realistically achievable within the constraints of the small rear yard. There is also uncertainty regarding its visual impact. Conditions should not be used to resolve fundamental uncertainties central to the planning judgment and statutory heritage requirements.
16. I therefore conclude that the proposal fails to demonstrate acceptable cycle storage, contrary to the sustainable travel objectives of YLP Policies T1 and D1.

Other Matters

17. The site lies within the Central Historic Core Conservation Area. Unlike the previous appeal, this proposal does not include a dormer extension and proposes only rooflights, which the previous Inspector found to be unobtrusive. However, due to absence of information on the scale and appearance of the cycle store, I cannot be satisfied that the development would preserve or enhance the character or appearance of the conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Nonetheless, this matter is not determinative in this case because the appeal fails for other reasons.

Planning Balance and Conclusion

18. The development would contribute to housing choice and make efficient use of existing housing stock. The site is also reasonably accessible by public transport and is within reach of local services. These are benefits that align with national objectives of boosting the supply of housing and promoting sustainable patterns of development. However, I attach limited weight to these benefits given the modest

scale of the scheme and the absence of substantive evidence that it would address a specific identified housing need.

19. Set against this, the shortcomings of the kitchen space would materially diminish the living conditions of future occupants. Additionally, the absence of adequate detail on the cycle store leaves significant uncertainty regarding the ability of the development to support sustainable travel, and to preserve the character or appearance of the conservation area. These are policy requirements of significant importance and are not matters that can be resolved through assumptions or conditions. When taken together, principally the harm arising from the inadequate kitchen provision and the failure to demonstrate appropriate cycle storage, the proposal conflicts with Policies H8, T1 and D1 of the YLP, and therefore with the development plan when read as a whole. There are no material considerations which indicate that permission should be granted contrary to the development plan.
20. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR