



Appeal Decision

Site visit made on 19 January 2021

by **C Dillon BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Appeal Ref: APP/F4410/W/20/3262009

13, Stanhope Road, Wheatley, Doncaster DN1 2TZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jamie Knott against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 20/00580/FUL, dated 11 February 2020, was refused by notice dated 29 July 2020.
 - The development proposed is described as change of use from dwelling house (C3) to house in multiple occupation (C4) and retrospective planning application for a single storey rear extension and single storey rear/side extension.
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Decision

1. The appeal is allowed, and planning permission is granted for change of use from dwelling house (C3) to house in multiple occupation (C4) and a single storey rear extension and single storey rear/side extension at 13, Stanhope Road, Wheatley, Doncaster DN1 2TZ, in accordance with the terms of the application Ref 20/00580/FUL, dated 11 February 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
 - 2) Prior to the building being brought into use as a house in multiple occupation (Use Class C4), the development hereby approved shall be carried out in accordance with the following plans: Plan No: AH0175-5g received 14 May 2020 and Plan No: AH0175-4c received 6 May 2020.

Procedural Matters

2. The description of development was amended through the course of the determination of the planning application and is contained in the above banner heading.
3. During my visit, I observed that 2 ground floor extensions had been built to the rear resembling those shown on the refused plans.
4. Reference to the term 'retrospective' in the description of development is omitted for the purposes of paragraph 1, as that is not a type of development.

Main Issues

5. The main issues are whether or not:
 - the appeal proposal would provide acceptable living conditions for its occupants, with particular regard to internal space standards, outlook, light and level of outdoor space; and
 - an appropriate level of Houses in Multiple Occupation (HMOs) in the area would be maintained, with particular regard to the character and appearance of the area and living conditions of occupiers of existing dwellings.

Reasons

Living conditions

6. The appeal site is a dwelling which, prior to the internal works and extensions that have taken place, had two bedrooms. The proposed HMO would provide living accommodation for 4 people.
7. The appeal scheme includes the provision of 3 first floor bedrooms and a fourth bedroom on the ground floor. Each bedroom would have en-suite facilities. A communal kitchen area would be provided. The appeal property has been extended to the rear at ground floor level to create a lounge, toilet and utility room, all of which would also be for communal use. The existing enclosed rear yard area with access to the rear lane would remain.
8. Policy 10 of the Council's emerging Doncaster Local Plan (the emerging Local Plan) seeks to manage further HMOs but does not include any specific space standards. However, the Council's Development Guidance and Requirements Supplementary Planning Document recognises that the internal design and layout of homes can affect health and quality of life. Furthermore, accommodation should have convenient access to adequate private or communal amenity space. The South Yorkshire Residential Design Guide sets out space standards for new dwellings.
9. In terms of their relevance, by the Council's own admission, the standards of the latter document were not devised for HMOs. Furthermore, the Council's evidence indicates that an HMO would have different characteristics to a dwelling.
10. The appeal proposal would fall within the control of the Council's HMO licensing regime. The Council's evidence signals that a degree of flexibility in the application of space standards associated with those controls may be exercised on a case by case basis.
11. Parts of the appeal proposal would fall below these standards. It is evident that subsequent discussions between the main parties in response to this influenced the revisions that were made to the proposed layout. No objections were raised by that team to the appeal proposal as amended.
12. There is no evidence that would indicate that these local licensing standards have been included within local planning policy or supplementary guidance. The

weight that should be afforded to them as a specific measure for planning purposes is limited because of this.

13. The appeal proposal would provide for a practical internal layout which would allow for private sleeping and washing facilities for the individual occupants. Although these private areas would be compact, this would be mitigated by the availability of a useable amount of separate internal and external communal spaces.
14. The kitchen area would be somewhat constrained by virtue of its size and layout. However, it remains that a functional kitchen would be provided. The nature of this use would mean that it is likely that occupants would prepare separate meals. No substantive evidence has been presented that would indicate that this would happen at the same time, so as to render the kitchen unfit for purpose.
15. Indeed, the nature of occupation would mean that the frequency and timing of the use of these communal areas could be of a lesser intensity at any one time to that of a dwelling. This is because the proposed use would not be that of a single household of a size that the property could otherwise accommodate. There is no evidence before me that that would indicate that the use of these communal areas could not be reasonably managed between occupants to suit their own individual requirements.
16. With the exception of the inner living room, the available outlook for occupants would not be dissimilar to that provided by the original layout of the property. No evidence has been advanced that would demonstrate that levels of light would be diminished to an unacceptable level. The absence of an external window to the inner living room is not ideal. However, it would remain a useable space with some borrowed light.
17. The proposed outdoor space would be accessible to each occupant. It would be enclosed so as to provide privacy. It would be of a size and layout that would be adequate for refuse and cycle storage and occupant's individual or communal use and enjoyment.
18. No substantive evidence has been provided that would demonstrate that the proposed outdoor space provision would be of a nature in terms of size and outlook which would fall significantly below that typical of other residencies in the area to a level that would be unacceptable.
19. For the reasons given and regardless of whether a genuine fallback position exists, the appeal proposal would not give rise to unacceptable living conditions for its occupants, with particular regard to internal space standards, outlook, light and level of outdoor space.
20. Policy CS1 of the Core Strategy states that developments must provide an adequate quality of life through amongst things being well-designed and fit for purpose. Proposals must provide opportunities for occupiers to have access to good quality housing.
21. Policy CS14 of that plan seeks to ensure that the use works functionally and will make a positive contribution to quality of private property, inclusivity and sustainability amongst other things.

22. Policy 10 of the emerging Local Plan states that proposals for HMOs will only be supported under very strict circumstances where amongst other things the internal standards of the property are suitable for multiple occupation, including good soundproofing, privacy, outlook, light, ventilation and have good communal facilities for washing, preparation and consumption of food. Furthermore, external communal areas and facilities must be of a sufficient size and standard to satisfactorily accommodate waste and recycling bins, safe and secure cycle storage. Overall, the size of the property should be sufficient to provide proper and adequate accommodation and living space for the number of residents intended to be accommodated.
23. In the absence of unacceptable harm to living conditions, this particular appeal proposal would not conflict with these policy requirements. However, given the stage that the emerging Local Plan has reached the weight that could be attached to emerging Policy 10 is limited. Nonetheless, collectively these policies would indicate that the appeal should succeed.

Level of HMOs

24. The appeal site is a 2 storey dwelling which is located within one of many densely developed residential terraced streets. These properties have rear yards served off a narrow rear lane.
25. This part of Wheatley is the subject of an Article 4 Direction which has brought the creation of dwellings into new HMOs under planning control. The submitted evidence confirms that the adjoining properties on either side of the appeal property are registered HMOs and there are others elsewhere within the street and wider area.
26. The exact numbers of HMOs within the street and wider area have not been precisely quantified because of limitations in data collection. Even when taking the higher of the 2 quantities for Stanhope Road which have been presented by main parties, the overall concentration of known HMOs in the street would not be at a level that would tip the balance and impose unacceptable harm on the character and appearance of this residential street. Neither would that translate to the wider area.
27. The existence of other HMOs in the area was only apparent during my site visit from the presence of several lettings' boards in the surrounding streets. There would be no external alterations to the front of the appeal property that would change its existing character. The extensions to the rear would be domestic in scale and not dissimilar to the design and pattern of other rear extensions in the street. Consequently, the domestic character and appearance of the appeal site would not significantly alter in visual terms.
28. The appeal proposal would result in a cluster of 3 HMOs which emerging Policy 10 seeks to avoid. However, the existing situation represents the sandwiching effect that this very policy also seeks to avoid. Emerging Policy 10 does not distinguish between the level of harm anticipated from any of the scenarios that it seeks to resist. This proposal would represent a small change to the existing situation. The appeal proposal would not adjoin other C3 properties. Furthermore, it would offer some scope to address the potential for the harm anticipated by Council to occur as a consequence of the appeal site itself being bounded on either side by existing HMOs. Consequently, in terms of

harm the overall effect of the proposed change would be neutral in this particular instance.

29. No evidence has been presented to this appeal that would indicate that HMO uses this street have already reached or exceeded a tipping point in terms of unacceptable noise, disturbance or anti-social behaviour. Furthermore, the submitted evidence does not substantiate that the resulting cluster would alter the existing character of this part of the street to a degree that would cause harm to the living conditions of occupants of surrounding dwellings.
30. For these reasons, the particular circumstances of this appeal proposal are such that an appropriate level of Houses in Multiple Occupation (HMOs) in the area would be maintained, with particular regard to the character and appearance of the area and living conditions of occupiers of existing dwellings.
31. Policy CS1 of the Core Strategy states as a means to securing and improving and enhancing quality of place and quality of life, proposals will be supported which ensure safe places where existing amenities are protected amongst other things.
32. Policy CS12 of the Core Strategy encourages a mixture of property types and tenures to ensure a balanced community.
33. Policy CS14 of that plan states all proposals must reinforce character and integrate well with their immediate and surrounding local area. New development should have no unacceptable negative effects upon the amenity of neighbouring land uses. The development will be assessed to ensure that it works functionally and will make a positive contribution to character of the area as well as quality, stability and safety of private property.
34. Saved Policy PH11 of the Doncaster Unitary Development Plan seeks to manage the effects of development on the amenities of occupiers of neighbouring properties.
35. In the absence of harm, the appeal proposal would not conflict with these policies.
36. Policy 10 of the emerging Local Plan states that the proposal should not result in an over-concentration of HMOs within a community, locality, street, row. Proposals must not create more than 2 HMOs side by side, sandwich a single house between 2 HMOs or result in more than 2 HMOs within a run of 20 properties on one side of the road. In this particular context, the appeal proposal would not accord with these standards.
37. However, given the stage that the emerging Local Plan has reached the weight that could be attached to Policy 10 is limited. For these reasons the conflict with this policy would attract very limited weight.

Other Matters

38. The Council has advanced previous decisions relating to HMO proposals. However, being outside of the Council's jurisdiction, there is insufficient certainty that there is a reasonable level of commonality in terms of both the physical and policy contexts to draw any meaningful comparisons. Therefore, they attract limited weight in this instance.

39. In making its decision, the Council had not raised objection to the effects of the rear extensions on neighbouring residents. Nonetheless, by virtue of the design, height and projection of these relative to the adjoining properties, I do not concur with the Council's subsequent stance which is set out in their statement in this regard.
40. The policies within the existing development plan do not specifically refer to HMOs. However, there are sufficient up to date generic policies to determine this proposal. Therefore, the tests set out in paragraph 11(d) of the National Planning Policy Framework would not be engaged in this particular instance.

Conditions

41. As the proposed change of use has not commenced, a planning condition relating to implementation timescales is necessary in the interests of certainty. A planning condition requiring that the development is carried out in accordance with the approved plans prior to the permitted use being implemented is necessary in the interests of safeguarding the living conditions of future occupants.

Conclusion

42. The circumstances of this particular site are such that there would be no unacceptable harm. As such, there is no conflict with the adopted development plan when taken as a whole. These findings would not be out-weighed by the apparent conflict with Policy 10 which can only be attributed very limited weight at the current time given its emerging status.
43. Consequently, this appeal should be allowed subject to the imposition of the prescribed conditions.

C Dillon

INSPECTOR