

Appeal Decision

Site visit made on 28 November 2016

by S D Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd December 2016

Appeal Ref: APP/X2410/W/16/3157734

24 Frederick Street, Loughborough, Leicestershire LE11 3BJ

- 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 Raffaele Russo, LOC8ME, against the decision of Charnwood Borough Council.
 - The application Ref P/16/1248/2, dated 23 May 2016, was refused by notice dated 25 July 2016.
 - The development proposed is change of use to a C4 HMO from C3 residential.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal property is within an area subject to an Article 4 Direction which removes permitted development rights for a change of use from Class C3¹ dwellings to Class C4 small houses in multiple occupation (for between 3 and 6 unrelated persons sharing basic amenities). This allows the Council to control such changes of use via the need for planning permission.

Main Issue

3. The main issue is the effect of the proposal on the balance of the local community taking account of the concentration of Houses in Multiple Occupation (HMOs) in the area and the effect on the living conditions of nearby residents with particular regard to anti-social behaviour.

Reasons

4. The appeal property is a mid-terrace house close to Loughborough town centre in a street which also contains the Loughborough University School of Art and Design and some other commercial uses but the predominant use is some form of residential. The HMO use has already begun and at the time the planning application was submitted the house was let to five student tenants.
5. The supporting text to policy CS4 of Charnwood Local Plan Core Strategy 2011-2018 adopted in 2015 (the CS) states that, whilst the Council values Loughborough University and Loughborough College and the significant economic, social and cultural contribution that the student population brings to Loughborough, a negative impact has been experienced in some neighbourhoods because of the over concentration of HMOs. These impacts have affected some community facilities, the character and appearance of the

¹ Town and Country Planning (Use Classes) Order 1987 as amended.

area, and caused disturbance and parking problems. Policy CS4 of the CS indicates that the Council will support the well-being, character and amenity of communities by managing the proportion of HMOs. This will be done by preventing HMOs that, either in themselves, or cumulatively with other HMOs, damage the social and physical character and amenity of a street or residential area, or generate noise and disturbance which is detrimental to the amenity of the street or residential area (amongst other things).

6. The Council's Supplementary Planning Document Student Housing Provision in Loughborough 2005 (the SPD) uses a threshold approach, informed by council tax records which indicate the number of households benefiting from student exemptions/discounts, to assess the proportion of households within the neighbourhood surrounding a site. The SPD demonstrates that the Council has been trying for many years to control the number of larger HMOs in the interests of protecting the living conditions of local residents and the character of the area. This intention is further illustrated by the introduction of the Article 4 Direction to control smaller HMOs.
7. The appellant questions whether a management strategy is necessary and whether the significant economic, social and cultural contribution students bring to Loughborough has been sufficiently valued in relation to what is described as "vaguely defined adverse effects". However, I have seen no evidence that the Council did not undertake a rigorous exercise in drawing up the SPD together with key stakeholders and the local community. Similarly I have seen no evidence that the Council does not value the contributions students make. The stated intention is to retain and restore a balanced community in Loughborough where the University and College are large in comparison with the town. Indeed the SPD specifically provides for a 20% proportion of HMOs and allows for the provision of purpose built student accommodation in appropriate areas.
8. The SPD and the use of the 20% threshold does allow for consistency in deciding planning applications for changes of use to HMOs. I am also aware that this approach has been accepted by my colleague Inspectors in recent appeal decisions on Ashleigh Drive, Grange Street and Derby Road². The appellant says the other planning appeals referred to by the Council are for different areas. However all are within the built up area of Loughborough and those for Grange Street and Derby Road are close by. Having had regard to the evidence before me I find my colleague Inspectors' and the Council's approach to be reasonable. As a result, I attach due weight to the use of the 20% threshold, whilst also bearing in mind that both the benefits brought by students to the town and the problems that can be caused by over concentration cannot always be precisely quantified particularly in relation to the use of a single property.
9. The appeal site is in Loughborough Southfields Ward. Paragraph 5.27 of the CS indicates that there are particular concentrations of student houses in that Ward. The majority of HMOs in the area of the appeal site are believed by the Council to be occupied by students and I have seen no evidence to dispute this. An increase in the number of student occupied properties results in a reduction in the number of C3 dwellings available for the local permanent community. As identified in the SPD this can lead to the erosion of the sense of community and

² APP/X2410/W/15/3141562, APP/X2410/W/16/3145046 and APP/X2410/W/16/3145055

social interaction normally engendered in a stable, balanced community. A high proportion of HMOs can also mean the exclusion of first time and young family buyers from the area, which is detrimental to the social balance and can lead to a reduction in the use of and demand for community facilities because many students rely on facilities provided on the university campus, rather than using facilities in the local community.

10. A high proportion of HMOs can often mean a higher incidence of anti-social behaviour, particularly at unsociable hours, increased levels of crime or fear of crime, poorer standards of property maintenance and repair, accumulations of waste and rubbish, littering, fly-posting and the presence of letting signs. In addition a high proportion of student HMOs can also mean congestion and disturbance during term time, sharply contrasted with an air of abandonment during vacations.
11. To define the neighbourhood area a cluster of 'small output areas' as defined by the Office for National Statistics is used. The Council looks at the proportion of HMOs in the 'Home Output Area' (the small output area in which the application site is located), along with the proportion of HMOs in the small output areas which share a boundary with that area (the cluster of small output areas). The appellant questions inconsistencies in the Council's figures of the proportion of HMOs in an area. The Council recognises that using different data sources in the past produced some inconsistencies between data sets and now holds a database of HMOs which draws on a number of data sources in the Council and the University to give the most accurate depiction available. However, as properties change ownership/occupation the proportion of HMOs will vary, often over short periods of time.
12. Using the new database, the Council has updated the figures for the purposes of this appeal. The proportion of HMOs in the cluster of output areas is now 48% and is 40.8% for the 'Home Output Area' which is slightly reduced compared to the position at the time the planning application was decided by the Council. I have seen no reason to doubt the Council's data but, even if there were some small discrepancies, as these figures show such a significantly higher proportion than the 20% SPD threshold I conclude there is a concentration of HMOs locally.
13. The appellant states that the direct neighbours of No 24 Frederick Street are a residential property on one side, although this is disputed by the Council, and an office on the other. The appellant also states there are a further 8 commercial properties and 11 HMOs in close vicinity to the site, that there a substantial proportion and variety of residential properties and that one additional HMO would not upset the balance of the community or result in detrimental effects. The area to which these figures relate is not clear. Nevertheless I acknowledge that the addition of just one HMO would not significantly alter the proportion of HMOs. However, in combination with other HMOs it would add to the cumulative impact on the area.
14. The appellant refers to data from Streetcheck³ which identifies the 'social grade' of residents in the postcode area of LE11 3BJ as indicating there is a good mix of social grade within the area and thus a balanced community. However, there appears to be no 'unemployed' or 'in full time education' category and the figures appear only to refer to one person in each household

³ The website www.streetcheck.co.uk

so nearly three quarters of the people included in the overall survey do not feature in the 'social grade' survey. The Streetcheck data also indicates about 50% of people in the area are aged between 20 and 24 and that about 62% of those aged 18 or over in the area are identified as students. I consider that these figures support the Council's case.

15. From the evidence before me I conclude that a significant concentration of HMOs and student accommodation already exists in the area. Consequently the character of the area with a balanced mix of different types of residential occupation is already undermined. It is apparent that the 20% limitation has already been breached in the wider area and that the use of No 24 in this way adds to/or perpetuates the high proportion of HMOs.
16. On this basis, whilst allowing No 24 to be used as a HMO may appear insignificant in itself, it increases the already high concentration of HMOs and student households in the area. As a result, cumulatively with other HMOs the appeal scheme detracts from and damages the character of the area and contributes to an imbalance in the make-up of the local community to the detriment of its well-being. This impact exacerbates a situation which the Council already recognises as requiring careful management.
17. Turning to the living conditions of surrounding occupiers, the use of the appeal property as an HMO is likely to have resulted in a more intensive use of the property, with more comings and goings (of both occupiers and their visitors, on foot and by car) which would be likely to result in noise and disturbance. This need not be a problem in itself, rather Policy CS4 of the CS recognises that it is the over concentration of HMOs in particular areas that can lead to negative impacts on existing neighbourhoods and their residents. I accept that all residents have the potential to cause nuisance but the more people living in a property the more potential there is for nuisance.
18. The appellant does not agree that the use of the property as a HMO is likely to result in an increase in noise, disturbance and anti-social behaviour and asserts that the letting agent has had no complaints from neighbours over the last two years of having multiple occupants in the property. I see no reason to dispute this. However, with the continued use of the property as a HMO, there is an increased likelihood of anti-social behaviour occurring in future years. It is the cumulative impact of many HMOs in the area which is of concern, and may result in increased noise and disturbance and anti-social behaviour in the street and not necessarily just at the property itself.
19. The Council has provided statistics from their community safety team which for the past year indicated 13 reported incidences of anti-social behaviour on Frederick Street, of which 54% had indicated that students were the primary aggravating factor. There were 188 total reports of anti-social behaviour in the area over the last year. In 136 of these (72%), students were indicated as the primary aggravating factor. The appellant asserts that the reference to 'aggravating factors' is vague and unjust. Whilst the Council has not supplied a definition, in the context of this appeal I have no reason to consider it otherwise than as the general usage of making matters worse. Moreover, I see no injustice in recognising that students, as well as others, can be involved in anti-social behaviour.
20. The appellant refers to Streetcheck data for crime in the area which indicates that there were 6 reports of crime on Frederick Street in the first 6 months of

2016 and 26 reports in the surrounding area, many of which were burglary or thefts, and considers this indicates a low level of crime. The Streetcheck crime locations are approximate for reasons of privacy and therefore give a general indication for the area rather than a precise street or property record. Moreover, the Streetcheck data also indicates that anti-social behaviour tends to be one of the most commonly reported types of incident in the area.

21. The appellant states that regular inspections are made of his properties to make sure that there are never problems which may concern neighbours or local residents. I have no reason to doubt that the appellant acts responsibly in this respect and this is not a matter which is disputed by the Council. However, planning permission would run with the land and other owners/letting agents in the future may not act in the same way. In my experience and supported by the evidence in the SPD many HMO properties are not particularly well maintained and managed. On balance I conclude there is sufficient justification to dismiss the appeal on the basis of a likely increase in noise and disturbance and thus anti-social behaviour.
22. There is limited space for the storage of refuse bins at the front of the property. Frederick Street is a busy through route and no off street parking would be provided on the appeal site. Local residents have raised concerns about increased on street parking and highway safety. No objections have been raised by the Council in respect of these matters. During my site visit I observed Traffic Regulation Orders controlling parking along this stretch of Frederick Street and a residents' parking scheme is in place. There is access to public parking and to public transport nearby. On this basis I see no reason to reach a different conclusion to the Council in respect of parking and highway safety. The absence of harm in these respects counts neither for nor against the development.
23. Bringing all the matters together, for the reasons given above, I conclude that there is already an imbalance in the local community given the concentration of HMOs in the area. I conclude that the continued use of No 24 as a HMO adds to this imbalance and is harmful to the character of the area and the living conditions of surrounding occupiers with particular regard to anti-social behaviour. Granting permission would therefore be contrary to Policies CS2 and CS4 of the CS and the guidance in the SPD. It would conflict with Paragraph 50 of the National Planning Policy Framework (the Framework) which seeks to create inclusive and mixed communities and a mix of housing based on current and future demographic trends and the needs of different groups in the community. It would also conflict with a core planning principle and with Paragraphs 58 and 69 of the Framework which together seek a good standard of amenity for all existing and future occupants of land and buildings and seek to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

Other Matters

24. The appeal site is in the Queens Park Conservation Area (the CA). I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The appeal proposal does not involve any alterations to the external appearance of the building and I note that the appellant ensures that the property is well

maintained. The Council raises no objections and I have no reason to believe that the development would have other than a neutral effect on the character and appearance of the CA taken as a whole, which amounts to preservation. This weighs neither for nor against the appeal proposal as the property could be equally well maintained as a single dwelling.

25. I have taken into account a further case where an appeal was allowed⁴ for the change of use to a HMO. However the circumstances there were different in that the proportion of HMOs was close to the 20% SPD threshold. Accordingly that decision does not lead me to any different conclusion.
26. It is desirable that Councils determine planning applications without delay. However, whether or not an application was decided within the target deadline is not a matter that affects the material planning considerations of the appeal before me. Accordingly in reaching my conclusion I give no weight to any delay there may have been in deciding the planning application.

Conclusion

27. For the reasons set out above and taking into account all relevant matters raised I conclude that the appeal should not succeed.

SDHarley

INSPECTOR

⁴ APP/X2410/W/15/3033447