
Appeal Decision

Site visit made on 30 November 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 04 January 2017

Appeal Ref: APP/X2410/W/16/3154095

60 Beacon Road, Loughborough, Leicestershire LE11 2BQ

- 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 Marco Carrelli against the decision of Charnwood Borough Council.
 - The application Ref P/16/0198/2, dated 24 January 2015, was refused by notice dated 9 March 2016.
 - The development is change of use from a residential (C3) to a HMO House of multiple occupation (C4), with view to let to 5 students or young professionals.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site is located within an area subject to an Article 4 Direction. This removes permitted rights for the change of use from dwellinghouses (Use Class C3) to small houses in multiple occupation (HMOs) (Use Class C4). Planning permission is therefore required for such a change of use.

Main Issues

3. The main issues are the effect of the development on the social character and amenities of the area in respect of the balance of the local permanent community and noise and disturbance and anti-social behaviour.

Reasons

4. The use concerned has commenced and relates to a mid-terrace property within a primarily residential area comprising a variety of dwelling types. As well as the immediate terrace, these include mainly detached houses on the opposite side of the road and many semi-detached houses elsewhere in the street and those streets coming off Beacon Road.
 5. Policy CS4 of the Charnwood Local Plan Core Strategy (the Core Strategy) relates to supporting the well-being, character and amenity of communities by managing the proportion of HMOs. Policy CS2 of the Core Strategy requires new development to, amongst other things, protect the amenity of people who live nearby.
 6. The Council's Student Housing Provision in Loughborough Supplementary Planning Document (2005) (the SPD) relates to controlling larger student
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HMOs. It was published prior to the introduction of the new C4 use class for small HMOs which makes no distinction between student or any other unrelated occupants. As such it does not relate specifically to changes of use to C4 but the Council has been using the same threshold approach to control C4 uses. It restricts such changes of use where a threshold of 20% existing student households in the area has been reached.

7. This threshold approach enables consistency in applying policy CS4 and in determining such proposals for change of use to C4. I also note that my colleagues for three previous appeals¹ have accepted that approach. I am therefore satisfied, based on the submitted evidence, that this approach is reasonable and so have applied some weight to the SPD in terms of its support for relevant development plan policies, including the use of the 20% threshold. That approach is then applied in respect of the neighbourhood relating to the site in question. That neighbourhood area is defined by a cluster of Census Small Output Areas (SOAs) comprising the SOA relating to the site, known as the Home Output Area (HOA), and all other SOAs sharing a boundary with the HOA.
8. The SPD methodology of utilising Council Tax data, which was used in the Council's decision for this appeal scheme, only identifies houses occupied by students, as they are exempt from paying Council Tax. Nevertheless, the Council highlights that that data alone shows there to be 27.9% of properties occupied by students in the neighbourhood cluster of SOAs relating to the site, significantly over the 20%. I have received no substantive evidence to demonstrate otherwise.
9. Since the Council issued its decision it has started utilising additional information from the University, electoral roll, and Private Sector Housing data showing where Licensed HMOs are, in order to achieve a more accurate picture of the overall number of HMOs, albeit that this is not enshrined in an SPD as yet. I agree that this would give a more comprehensive picture and am satisfied that my consideration of this approach would not prejudice the appellant who has had the opportunity to comment on the Council's appeal statement. That shows an even greater, 34.5%, proportion of HMOs in the neighbourhood area.
10. Even taking account of a new residential development of 41 dwellings currently under construction nearby, the percentages would still be noticeably above the 20% threshold with regard to both the original and updated methods of calculation. Furthermore, I have no conclusive evidence to indicate that there is a clear ongoing downward trend in the proportion of HMOs that is likely to reach that 20% level in the near future.
11. The appellant claims that under the original method of calculating the percentage of student accommodation in the neighbourhood, double counting occurred in respect of the household equivalent number of properties. However, I have received no substantive evidence of this having occurred. In any case, based on the more comprehensive method of calculation, the 20% threshold is still be breached in this case. Calculations made in approving the HMO at No 12 in 2014, Ref P/14/1839/2, showed the threshold not to have been breached, but that was due to lower levels of student accommodation at that time.

¹ APP/X2410/W/16/3145055, APP/X2410/W/16/3145046 & APP/X2410/W/15/3141562

12. There is therefore a clear breach of the 20% threshold which is a material factor in assessing the effect of the development on the social character and amenities of the area.
13. The SPD highlights the problems of having too many student households in a neighbourhood, including for example late night noise and threatening behaviour. It acknowledges that such behaviour may well be likely to be carried out only by a minority but that the more students there are in an area, the greater chance of it occurring.
14. The Council refers to 26 reported complaints of anti-social behaviour between March and December 2015 on Beacon Road and Mayfield Drive, including 5 relating to students. The HMO would not necessarily be occupied by students but this could not be guaranteed. Neither could there be any control over whether the occupants are mature students or young professionals rather than junior students. Although it is claimed that the high quality of the conversion would tend to be less likely to attract the latter that too could not be controlled or guaranteed.
15. I note that sound insulation measures have been installed into the property. That may well adequately mitigate any internal noise. However, there are likely to be more comings and goings from the property by occupants, likely to be acting independently, including within the surrounding neighbourhood, than for a family dwelling. This would be likely to increase the potential for a material increase in external noise and disturbance within this residential area comprising mainly family sized houses.
16. In adding even only one HMO to the already over-concentration of HMOs in this neighbourhood, this is therefore likely to further increase the potential for unacceptable levels of noise and disturbance and incidents of anti-social behaviour. This in turn would be likely to cause unacceptable harm to the living conditions of local residents.
17. The appellant refers to there being a decrease in crime incidents in the year following the grant of approval and operation of the HMO at No 12, both within a mile of Beacon Road and on that road itself, when compared to the previous year. It is also claimed that of the 4 recorded crimes in that period on Beacon Road, only 1 was reported as anti-social behaviour, which was outside of term time, suggesting a potential lack of correlation between the introduction of a new HMO and increased anti-social behaviour and crime. However, crime figures would inevitably not reflect or record all instances of anti-social behaviour and noise and disturbance, and the Council's evidence in respect of those more recent 5 incidents, referred to above, is compelling. I have therefore applied little weight to the appellant's attempt to prove a lack of correlation between HMOs and anti-social behaviour based on that approved at No 12.
18. Comparisons between crime figures of another street, Goldfinch Close, and those of Beacon Road, is again not necessarily reflective of all incidents of anti-social behaviour and noise and disturbance, nor of the total number of such incidents within the neighbourhood cluster of SOAs. Furthermore, whether or not cars associated with the property would be parked on the street, in terms of attracting vehicle crime, is unlikely to have any material bearing on the levels of such crime in the area as there would remain a substantial number of other cars parked on the street.

19. It is claimed that the property being vacant, were it not allowed as an HMO, would increase the risk of attracting criminal behaviour, including burglary. However, I have no substantive evidence to indicate that the property would be likely to remain vacant on an ongoing basis nor that there would be any specific cause for attracting burglary incidents.
20. The appellant highlights that affordable housing has been approved as part of the 41 houses currently under construction despite claims that it would be a source of increased crime and anti-social behaviour. However, I have received no substantive documentary evidence to justify this claim and reference to Scottish Government literature is not directly relevant to this location.
21. I have had regard to the claim that the HMO contributes to the Council's acknowledged shortfall in affordable homes, and so reduces the resultant dependence on people living longer with their parents. However, I have no substantive evidence to indicate that there is such a shortfall of HMOs, or student accommodation generally, as to represent an over-riding justification for this small addition to the supply.
22. For the above reasons, the cumulative effect of this additional HMO in the neighbourhood is unacceptably harmful to the social character and amenities of the area, in respect of further contributing to the imbalance of the local permanent community, and its potential for generating further noise and disturbance and anti-social behaviour. As such it would be contrary to policies CS2 and CS4 of the Core Strategy. It would also be contrary to the National Planning Policy Framework which in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Conclusion

23. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR