
Appeal Decision

Site visit made on 29 March 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 24th April 2017

Appeal Ref: APP/Q3060/W/16/3160649
43 Albert Grove, Nottingham NG7 1PB

- 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 Shafiq Ahmed against the decision of City of Nottingham Council.
 - The application Ref 16/01771/PFUL3 (PP-05380432), dated 3 August 2016, was refused by notice dated 28 September 2016.
 - The development proposed is the change of use from a family dwelling (C3) to a house with multiple occupancy (C4).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Although neither of the main parties has provided written confirmation that a revised description of development has been agreed, I have used the description given in the appeal form in the header above. This is a clearer and more accurate description of development which excludes the superfluous descriptive wording used in the original application form.

Main Issues

3. The main issues are the effect of the development on:
 - (a) The maintenance of a balanced community with regard to the proportion of homes in multiple occupation; and
 - (b) Living conditions of occupiers of nearby residential properties, with particular regard to noise, disturbance and parking.

Reasons

Effect on the maintenance of a balanced community

4. The appeal property is a three bedroom terraced dwelling located in a high density residential area. The property is located in an area covered by an Article 4 Direction which removes permitted development rights for the change of use of a single dwelling house to a house in multiple occupation (HMO), for between 3 and 6 people, within Use Class C4 of the Town and Country Planning (Use Classes) order 1987 (as amended). I understand that the house is
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currently let to two students and the intention would be to increase occupancy to four.

5. When taken together, Policy 8 of the Nottingham City Aligned Core Strategy (CS)(2014), saved policies ST1 and H6 of the Nottingham Local Plan (LP)(2005) and 'The Building Balanced Communities' Supplementary Planning Document (SPD) (2007) set out that development which would result in additional student accommodation will not be granted in areas with a significant concentration of student households where it would prejudice the maintenance of a balanced community. The policies also establish an objective of redressing the balance in existing areas of high student populations by focussing on the provision of family housing.
6. The SPD sets a threshold of 25% at which an area is considered to have a high concentration of student households and where a community is at risk of being considered unbalanced. The Council have provided data which indicates that the appeal property is located in an 'output area' which has a concentration of around 64% of student households. The average for the area surrounding the site is around 42%. This is significantly higher than the threshold set out in the SPD. There is no dispute from the appellant that this is an area of high student accommodation with a large number of existing HMOs.
7. Although the SPD makes it clear that the figure of 25% is not prescriptive, the level of student housing over and above this figure exhibited in the area is such that this is significant evidence of an existing imbalance in the community and housing mix. The existing high levels of student accommodation in this area do not, in my view, justify a further increase in HMOs. The transient nature of the student population and the fact there will be periods in the year where dwellings are vacant are unlikely to secure an inclusive and balanced community.
8. I recognise that the dwelling is already occupied by students and the development would not lead to a significant increase in the overall student population. However, allowing a further HMO would still result in the intensification of what is already a significant concentration and exacerbate an issue the development plan is seeking to redress. The appellant has suggested that it is unrealistic to expect a house such as this to be sold or let for family housing in an area of such high student accommodation. There is no substantive evidence before me that demonstrates the dwelling would not be viable for non-student housing. However, even if this were the case, it would only add weight to my view that there is an existing imbalance in the housing mix in this area.
9. The Article 4 Direction and policies relating to this issue all stem from concerns about areas with high levels of such housing. In such circumstances, it would clearly interfere with the intentions of the CS, LP and SPD policies if additional examples were permitted solely on the basis that there is already a high proportion of students or HMOs. The development would still result in an increase in the student population of the area and remove a potential family dwelling from the area contrary to the aims of the development plan.
10. The Council has drawn my attention to a number of appeal decisions it considers relevant. One of these relates to development at 4 Albert Grove¹

¹ Appeal reference: APP/Q3060/A/12/2181125

where the Inspector dismissed the appeal on the basis of the high levels of student accommodation and concerns over precedent. Whilst the CS has been published since this decision was made, Policy 8 of this document only serves to reinforce the Council's overall approach to the housing mix in areas of high student households and HMOs. The proposal in that case also related to a larger HMO. However, considering the relative proximity of that property and the similarity of the context, I consider this to be an important decision to which I have given significant weight. There does not appear to have been a reduction in student housing in this area or other change in context, and thus I see no reason why I should take a different approach to the Inspector in that case.

11. In conclusion on this matter, I find that the development would further exacerbate the current over-concentration of student accommodation in this area. As such, it would conflict with CS Policy 8, LP policies ST1 and H6 and the SPD which seek, amongst other things, to influence the mix of housing in an area by controlling the level of student accommodation, having regard to the desirability of creating and maintaining a balanced community.

Living conditions

12. The Council suggests that the development could accommodate up to 6 students, while the appellant indicates it would not be more than 4. I have no reason not to accept the appellant's intentions in this regard. The Council have suggested that the potential number of people living at the property would be disproportionate to the size of the dwelling. However, there is no substantive evidence before me that the building would not be capable of adequately accommodating the number of people suggested.
13. The Council have raised general concerns regarding HMOs and an increase in noise and anti-social behaviour. However, no specific evidence has been provided which relates to the appeal property or this area. I do not consider unacceptable levels of noise or disturbance to be the inevitable consequence of the multi-occupation of a dwelling, but rather a question of individual behaviour and appropriate management. The relatively small increase in the number of people living at the property would be unlikely to lead to an unacceptable level of noise or disturbance.
14. Similarly, the Council's comments on the issues of waste disposal and the poor maintenance of properties are not supported by reference to this area or the appeal property in particular. I saw no evidence that the building in question is poorly maintained, nor should it be assumed that the change of use to a HMO would result in such. I also observed no overt signs of problems in the area associated with waste disposal and see no reason why a small increase in the number of people currently living at the property should lead to such problems in the future. While I have found that the high turnover of occupants would be harmful in terms of creating an inclusive and balanced community, it is not clear what direct effect this would have on the living conditions of neighbouring properties in this particular case.
15. Without any specific evidence relating to levels of noise, anti-social behaviour or other issues raised in the immediate area, or any comments from either Environmental Health or the Police, then the above generalised concerns over the nature of the use do not carry significant weight in my decision.

16. The Council has also raised concerns over the effect of the development on on-street parking. I saw that Albert Grove is subject to restrictions which limit parking between 0800 and 1800 Mondays to Saturdays to residents with permits. I visited the site during this period and, while there were cars parked on the street, there were also numerous spaces available and no overt signs of parking stress. I recognise that the situation may change in the evenings and Sundays when there are no restrictions and more people are at home. However, considering the nature of the proposal, any increase in parking demand is unlikely to be significant and would be subject to some level of control. As such, based on what I have before me, I am not persuaded that the development would lead to material harm in this regard.
17. In conclusion therefore I find there would be no material harm to the living conditions of nearby occupants from the use of the property as a HMO. Accordingly, there would be no conflict with CS Policy 10, LP Policies H6 and NE9 or the SPD which seek, amongst other things, to ensure the living conditions of neighbouring residents will be safeguarded, that parking arrangements do not affect the ability of local residents to park their cars and that noise pollution would cause significant detriment to occupants of adjoining land.

Other matters

18. The appellant has drawn my attention to student housing granted permission on nearby Ilkeston Road. This involved the conversion of a former public house to accommodate 56 student bedrooms. I have noted the appellant's comments with regard to the effect of this on social cohesion and the consistency of allowing this facility in an area with such high numbers of students. The two cases are not entirely comparable, however, as the Ilkeston Road proposal involved the change of use of a public house rather than a family dwelling. I note the supporting text to CS Policy 8 and the SPD make reference to support for purpose built student accommodation, such as this proposal. One aspect of this approach is that it serves to alleviate the pressure on the conversion of family homes such as the appeal site.
19. CS Policy 8 also highlights a need to redress the housing mix within areas where there is a high proportion of student housing and HMOs, and that there should be an emphasis on providing family homes. As such, I see no inconsistency in the Council's approach and the conversion of the public house does not alter my overall conclusions about the development before me.
20. A more general point on fairness has been raised in relation to the number of HMOs already in existence and the fact other landlords are able to benefit from higher rental values. For the reasons given above, I do not consider the Council's general approach to HMOs in this area to be unfair or inconsistent. Moreover, I have no reason not to accept the Council's evidence that many of the HMOs were in existence prior to when the Article 4 Direction was put in place and were not subject to controls. As a result of this Direction, planning permission is now required and the policies of the development plan must be considered. The development would conflict with such policies and I do not consider that the fact there are other HMOs in the area is a sufficient material consideration to outweigh this.
21. The appellant has suggested that the property is too large to accommodate two students and that, if the appeal is dismissed, he would not be able to achieve a

good rental income from the property. He has also suggested that this may lead to the property becoming vacant. A concern over the effect that dismissal of the appeal would have on the value of the property has also been raised. The limited evidence submitted by the appellant on this issue does not convince me that the dwelling could not continue to be viably operated in the manner it currently is. Nonetheless, it is a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property.

22. The appellant has raised some concern that the only objection to the proposal was from a resident who lives some distance away from the scheme. While I have noted that there were no objections from neighbouring dwellings, this does not alter or outweigh my conclusions or the conflict with the development plan. The distance that an objector lives from a site is not something which would have a direct bearing on my decision.
23. Whilst I have no doubt that the appellant wishes to ensure that the standard of the development would meet the necessary requirements, and that it would be managed by a reputable letting firm, this does not outweigh the conflict with development plan policy outlined above.
24. I note that in some of the appeal decisions drawn to my attention, the Inspector concluded the development would lead to harm to living conditions. However, each case must be considered on its own merits and I have seen no evidence that would persuade me in this case that the proposal would have an unacceptable impact.

Conclusion

25. Although I have found that the proposal would not cause material harm in relation to living conditions, this does not outweigh my concerns in relation to the concentration of student accommodation and HMOs in this area, the failure of the development to support a mixed and balanced community and the consequent conflict with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR