
Appeal Decision

Site visit made on 4 April 2017

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 18th May 2017

Appeal Ref: APP/Q3060/W/17/3167512
28 Addison Street, Nottingham NG1 4GY

- 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 Megaclose Limited against the decision of City of Nottingham Council.
 - The application Ref 16/02069/PFUL3 (PP-05423213), dated 7 September 2016, was refused by notice dated 8 November 2016.
 - The development proposed is Change of use from hostel (Sui-Generis) to a large house in multiple occupation (11-bed student accommodation) with minor internal alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The first 2 of the Council's 3 reasons for refusal raise matters which are closely inter-linked. I have therefore identified 2 main issues which are:
 - (a) the effect of the proposed development on 'community balance' and living conditions within the surrounding area; and
 - (b) the effect of the proposed development on the character and appearance of the Arboretum Conservation Area (ACA).

Reasons

Policy context

3. The development plan, with which my decision must accord unless material considerations indicate otherwise, comprises the saved policies of the Nottingham Local Plan (NLP) 2005 and the Greater Nottingham Aligned Core Strategies Part 1 Local Plan (ACS) 2014. The National Planning Policy Framework (the 'Framework') is an important material consideration.
4. The emerging Nottingham City Land and Planning Policies Document (NCLPPD) is at an early stage in its preparation and carries only limited weight.

Community balance and living conditions

5. The appeal property is a large, currently vacant detached building set within an established residential area. The building was last used as a hostel with 9 bedrooms which, according to the appellant, accommodated 12 male residents
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- and a warden. The appeal proposal would alter the property to form a large House in Multiple Occupation (HMO) providing 11 student bed spaces.
6. Saved policy H6 of the NLP establishes that planning permission will be granted for student accommodation where amongst other things '*...the development or maintenance of balanced communities is not prejudiced*'. Whilst the policy does not define the term 'balanced communities' its supporting text indicates that the policy responds to problems caused by high concentrations of student accommodation in areas of Nottingham including the Arboretum. The problems identified include: loss of family housing; a transient population which is less likely to contribute to local communities; high levels of vacancies in summer months; disturbance; and other environmental problems. Representations received from local residents suggest that such issues still affect living conditions in the area.
 7. I accept that policy H6 only focusses on one aspect of 'community balance' (the influence of concentrations of student housing). However, as the pressures caused by such housing appear to a key issue in the area and as policy H6 must be read in the context of the NLP as a whole this does not materially reduce the weight to be attributed to it. The fact that areas with a high concentration of students remain some 12 years after the NLP was adopted also does not do this. Whilst policy H6 pre-dates the publication of the Framework and is not based on any recent assessment of student or other housing needs, its approach of seeking to achieve a balanced community has a lot in common with the creation of '*...sustainable, inclusive and mixed communities...*' referred to in paragraph 50 of the Framework. I do not consider policy H6, or policy ST1 which is also referred to in the Council's decision, to be out of date. Having regard to paragraph 215 of the Framework I have attributed substantial weight to them in my decision.
 8. The Building Balanced Communities Supplementary Planning Document (SPD) 2007 indicates that proposals for HMOs and other student housing will not usually be permitted in areas where the total percentage of 'student households' in the Census output area containing the site and those which immediately adjoin it exceeds 25%¹. The SPD does not form part of the development plan and has the status of supporting guidance rather than policy. However, there is no substantive evidence that the geographical scale over which the analysis in the SPD is undertaken is unsuitable or to demonstrate that the 25% figure in it does not in general terms define an appropriate 'tipping point' between a 'balanced' and 'un-balanced' community.
 9. The evidence before me identifies that in November 2015, 46.1% of households in the area around the site, as defined by the methodology in the SPD, were 'student households'. These figures suggest, in the terms of the SPD, that the local community is already 'unbalanced'. Whilst the proposal would only have a minor effect on this figure, it would nevertheless increase this imbalance and conflict with the provisions of the SPD related to this type of proposal.
 10. Due to the current layout and authorised use of the appeal premises, the proposed HMO would not lead to the loss of any existing family housing. It would also not be likely to lead to a more transitory occupancy than would

¹ The definition of 'student household' and the relevant area over which the percentage of such households is calculated are set out in the SPD.

result from resumption of the authorised use of the premises as a hostel. Having regard to the size of the building and the FHP Property Consultants Market Assessment submitted by the appellants the property is unlikely to be converted for use as a single dwelling. However, whilst the appellant has claimed that the premises could not be converted to flats no convincing viability information has been submitted to demonstrate that this is the case. The appeal proposal would, by providing a form of accommodation which is specifically aimed at the student market, materially reduce the scope for it to be used to meet other housing needs.

11. As the proposed HMO would accommodate a similar number of residents to the previous use of the site as a hostel, it is likely to generate a broadly similar amount of coming and going. However, unlike the previous use, and many potential future uses which would be associated with the term 'hostel', the proposed HMO would not have an on-site warden or be subject to an equivalent level of on-site supervision. As a result and given the lifestyle associated with many student residents there is a high risk that the use would generate late night noise within and around the property for example as residents return from social events elsewhere, play music or host social gatherings.
12. I also note that the building within the appeal site, although detached, is very close to the neighbouring dwelling at 26 Addison Street, and that windows to the proposed kitchen/diner, lounge, and some bedrooms would either face or otherwise be very close to this property. Whilst the previous hostel use had habitable rooms facing in this direction, any noise generated from these would have been subject to control under the on-site warden arrangements referred to above.
13. Although the appellant has proposed that a Student Accommodation Management Plan (SAMP) be used to control student behaviour, the effectiveness of this or other enforcement action would require incidents to be reported, culprits to be identified and appropriate punitive actions taken. I am not convinced that this would happen to an extent which would fully mitigate such problems. Due to the nature of the proposed use it is also likely to contribute to the problem of properties being left vacant or largely vacant in the summer months.
14. I accept that the proposals include appropriate provision for waste storage. Management of waste and general upkeep of the property can be addressed through the implementation of an SAMP as set out above. The turnover of occupants within the HMO would not be any more frequent, and could be less so, than would be expected if the hostel use were to resume. However, these points do not outweigh my concerns set out above.
15. In summary, the proposal would add a further 11 bed spaces for students within an area which is already heavily skewed towards student occupation. It would also reduce the scope for the property to be used to meet other housing needs and cause a substantial risk of an increase in noise and disturbance for nearby residents. It would also be likely to have substantial levels of vacancy during summer months. Due to a combination of these factors the proposal would have a harmful effect on 'community balance' and the living conditions of residents in the surrounding area, and conflict with the

provisions of policies ST1, H6 and NE9 of the NLP, policies 8 and 10 of the ACS, the SPD and Framework related to this issue.

Arboretum Conservation Area

16. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the ACA. Paragraph 132 of the Framework requires that I attribute substantial weight to this matter.
17. The ACA covers a large and diverse area centred upon the open space of the Arboretum, next to which a number of developed areas are located. The appeal site itself, whilst very close to the central open space area, forms part of an area of traditional housing, likely to date from within or around Victorian times. It is not in dispute that the physical alterations to the building, which would be internal, would be appropriate.
18. The concerns of the Council related to the management of the external areas should be capable of being addressed through the appellant's proposed SAMP. However, although the proposed development would, by providing a viable re-use of the appeal premises, ensure its long term maintenance it is not clear that it offers the only means by which this could be achieved.
19. I conclude that the proposal would have a neutral effect on the character and appearance of the ACA. It would not cause any material conflict with the provisions of saved policy BE12 of the NLP, policies 10 or 11 of the ACS or the Framework related to this matter.

Other Considerations

20. I have noted the appellant's claims that purpose built accommodation is not meeting demand for student accommodation and is not attractive for year 2 and 3 students. However, limited quantitative evidence has been submitted to demonstrate the overall trends concerning demand for and supply of student accommodation in the city. Although the site is within easy walking and cycling distance of the local universities and Nottingham city centre and has good access to bus and tram routes, these matters must be weighed against the need, recognised in the development plan, to develop or maintain a balanced community in the area.
21. Whilst the proposal would bring a vacant property into use it is not clear that the proposal represents the only way in which this may be done.
22. The proposed car parking arrangements, taking account of the likely car ownership levels of the students would be satisfactory and sufficient provision would be made for cycle parking. However, these points constitute a lack of harm in relation to these points rather than positive benefits to weigh in the planning balance.
23. I accept that the fact that the appellant is not subject to the Unipol code is not a material planning consideration. However, this does not affect my earlier findings.

Conclusions

24. I have found that the proposal would have a harmful effect on 'community balance' and the living conditions of residents in the surrounding area. Due to

the resultant conflict with development plan policy this carries substantial weight against the proposal.

25. In support of the proposal, it would help to meet needs for student accommodation in an area which is close to the university and city centre, and bring a vacant property back into use. I have also found that the proposal would not cause material harm to the character or appearance of the ACA. However whilst the proposal would therefore bring benefits these do not lead me to conclude that it would accord with the development plan or the Framework as a whole, or constitute sustainable development in the terms of the Framework.

26. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Clarke

INSPECTOR