
Appeal Decision

Site visit made on 7 June 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 21 June 2017

Appeal Ref: APP/X2410/W/17/3170107

Managers Accommodation, 104 Ashby Road, Loughborough LE11 3AF

- 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 John Walsh against the decision of Charnwood Borough Council.
 - The application Ref P/16/2486/2, dated 2 November 2016, was refused by notice dated 16 January 2017.
 - The development proposed is the refurbishment of upper floors to create 5 bedroom with en-suites and communal kitchen.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal property is in an area subject of 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 (HMO). Planning permission is therefore required for such a change of use.

Main Issue

3. The main issue is the effect of the proposed 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 manager's accommodation is above the Old English Gentleman public house which is in an area with a high concentration of HMO accommodation. While the appellant contends that the concentration is influenced by purpose built student halls of residence and student rented properties in terraced houses in roads off Ashby Road, the Council's survey, which is based on properties in a 100 metre radius of the appeal site, puts the concentration of HMO's at roughly 59%.
5. Policy CS4 of the Charnwood Local Plan 2011 to 2028 Core Strategy (Core Strategy) seeks to manage *the proportion of houses in multiple occupation*. The policy explains that further policy and guidance will be prepared in respect of HMO's. In this regard, the Council has recently adopted its Housing Supplementary Planning Document (HSPD) which replaces the Student Housing

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

Provision in Loughborough Supplementary Planning Document (SHSPD) that was relied upon in the reason for refusal. My findings relate to the Core Strategy, the HSPD and the National Planning Policy Framework (the Framework) not the policies in the Borough of Charnwood Local Plan (Local Plan) and the SHSPD which the appellant accepts have been superseded.

6. The HSPD provides a strategy to manage the proportion of HMO's in the borough, as the Council suggest there has been a negative impact in some areas, which has affected their character and appearance and led to issues in terms of disturbance, parking and to some community facilities.
7. The HSPD sets out, as one of the tests to understand and manage the proportion of HMOs in an area, that the Council will seek *to resist further HMOs (small or large) where there is already 20% or more HMOs within a 100m radius of the application site*. The appellant does not object to the Council's approach in general and points to the manager's accommodation forming part of the public house use. Even so, evidence leads me to consider that the proposal conflicts, despite the scheme's size, with the HSPD threshold as it would add to the already high concentration of HMO's in the area.
8. Notwithstanding this, the threshold is one aspect of the assessment, along with the criterion in Core Strategy Policy CS4 which allow for consideration of a scheme's individual or cumulative effect of HMO's. Even so, the HSPD explains that *there will be instances where the impacts of a new HMO in an area with an already high concentration might be considered acceptable in accordance with Policy CS4 and planning permission granted accordingly*.
9. Due to the existing concentration of HMO's the Council accept that this undermines the character of the neighbourhood, even if there are no halls of residence or purpose-built student accommodation in the site's vicinity. Instead properties, on Ashby Road, near to the site were used commercially on the ground floor, with the upper floors in residential use. Locally, the area is mixed, with shops and retail outlets, food and drink uses, professional services and hot food takeaways coupled with HMO's, flats and terraced dwellings. Ashby Road is a busy principal route between the university, residential areas and the town centre that is very well used by pedestrians and vehicles. It is not, however, part of the principal retail and commercial centre of the town, even though it lies in Loughborough Town Centre - Outer Area in the saved Local Plan Proposals Map.
10. Despite the loss of the manager's accommodation which could potentially support a family, the rooms may not necessarily be let to students and the proposal would widen the choice of homes in the area and make effective use of the site². However, equally there are no assurances that this would remain the case and hence I am not satisfied that the proposal would not, cumulatively with other HMO's directly cause abandonment during the holiday periods. I recognise the proposal is for a single property, which may, itself not seem to make a substantial contribution, but the appeal scheme would increase the already high concentration of HMO's in the immediate area. This would lead to further imbalance of the local community that is already heavily influenced by students. As a result, even though natural surveillance would still remain, it is likely that local facilities and services would be affected along with the

² National Planning Policy Framework, paragraphs 50 and 51

communities well-being³. This would damage the social and physical character and amenity of this part of Ashby Road which would conflict with Core Strategy Policies CS2 and CS4.

11. Furthermore, a HMO use has greater potential to lead to noise, disturbance and anti-social behaviour as the upper floors would be used more intensively. This would result in a more comings and goings, which would be more likely to lead to noise and disturbance, notwithstanding the use of Ashby Road and the public house. In itself this may not be an issue, but cumulatively with the high concentration of HMO's locally this could very well lead to negative and harmful effects on the amenity of the street.
12. I am mindful of the recorded incidences of anti-social behaviour in the last year. The Council point to 33 no. instances in the local area. Of these, 19 no. are related to students. These figures are not surprising given Ashby Road is a well-used primary route and it has a variety of daytime and nighttime uses. The proposal would, together with the other HMO's nearby add to the potential for such instances to occur more frequently, especially late at night, when the effects would be more acutely felt. This would, despite the lack of objection from the Storer and Ashby Road Area Residents Group, exacerbate the current situation which requires careful management. The proposal would therefore be likely to generate noise and disturbance which would be harmful to the amenity of this part of Ashby Road. This would conflict with Core Strategy Policies CS2 and CS4, HSPD 12 and paragraph 58 of the Framework.
13. Aside to these points, the site is within walking distance of the town centre, the university and a wide variety of facilities and services, including public transport that would serve the occupants day-to-day needs. So, despite the nearby parking restrictions, the proposal would not either itself or cumulatively with other HMO's, generate on-street car parking that would prejudice the safe operation of the highway or cause a detriment to amenity, unlike the scheme at 78 Derby Road⁴. The proposal would accord with HSPD 15.
14. The Generous Briton public house (85 Ashby Road) is nearby. The upper floor of No 85 is used as a HMO. While development plan policies should be applied consistently, the Council granted planning permission⁵ in a different planning policy context which supported student accommodation in the town centre. The circumstances are no longer the same.
15. The parties have referred to a host of appeal decisions made in the borough. Having regard to these and the comparisons drawn, I consider 39 Ashleigh Drive, 16 Grange Street, 24 Frederick Street, 60 Beacon Road⁶ all present different circumstances, in that they are located in residential areas. Hence they are not directly comparable to the appeal scheme which I have considered on its own planning merits.
16. Even though the proposal would accord with HSPD 13, 14 and 15, I do not consider that the appeal scheme would comply with the HSPD as a whole, given my findings in terms of HSPD 11 and 12.

³ National Planning Policy Framework, paragraph 69

⁴ Appeal Decision Ref: APP/X2410/W/16/3145055

⁵ Council Application Ref: P/10/2002/2

⁶ Appeal Decision Refs: APP/X2410/W/15/3141562; APP/X2410/W/16/3145046; APP/X2410/W/16/3157734; APP/X2410/W/16/3154095

17. For these reasons, on this issue, I conclude that the proposal would have a significant effect 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. The proposal would not accord with Core Strategy Policies CS2, CS4 and CS25, the HSPD and paragraphs 17, 58 and 69 of the Framework. Together these seek to, among other things, prevent HMO's either in themselves, or cumulatively with other HMO's which damage the social and physical character and amenity of a street and protect the amenity of people who live or work nearby and those who will live in the new development so that it functions well over the lifetime of the development.

Conclusion

18. Notwithstanding the appellant's suggested condition, I do not consider that this would make this otherwise unacceptable development acceptable. Overall, I do not consider that the proposal would lead to sustainable development, as it would not fulfil the social or environmental roles.
19. For the reasons given above I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR