



Appeal Decision

Site visit made on 28 November 2017

by Elaine Benson BA (Hons) DipTP MRTPI

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

Decision date: 12 January 2018

Appeal Ref: APP/X2410/W/17/3180376

9 Hermitage Road, Loughborough LE11 4PA

- 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 Ms Kudirat Olowosale against the decision of Charnwood Borough Council.
 - The application Ref P/17/0071/2, dated 15 January 2017, was refused by notice dated 28 March 2017.
 - The development proposed is change of use from a residential dwelling (C3) to a house of multiple occupancy (C4).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a residential dwelling (C3) to a house of multiple occupancy (C4) at 9 Hermitage Road, Loughborough LE11 4PA in accordance with the terms of the application, Ref P/17/0071/2, dated 15 January 2017, subject to the following condition:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

Procedural Matter

2. Since the determination of the appeal planning application, the Council has adopted the *Housing Supplementary Planning Document* (May 2017) (HSPD). It replaced the guidance against which the planning application was determined. This appeal has been assessed in accordance with the provisions of the HSPD.

Main Issue

3. The main issue in this appeal is the effect of the proposed change of use to a House in Multiple Occupation (HMO) on the local community, with particular regard to cumulative effect.

Reasons

4. Hermitage Road is a residential street of predominantly two-storey houses of similar design. The appeal property (No 9) is a semi-detached 3 bedroom house. It front onto a green and has no off-street car parking. It is proposed to use No 9 by not more than 6 residents as a house in multiple occupation. An Article 4 Direction requires that planning permission is obtained for the proposed change of use which would in other circumstances constitute 'permitted development'.

5. The Council's approach towards HMOs is set out in Policy CS4 of the Charnwood Local Plan Core Strategy (CS), as supported by the HSPD. The Council requires a good mix of housing across the borough to secure balanced communities. It recognises that HMOs are an important part of the housing stock which help meet local housing requirements, particularly amongst Loughborough's student population, those on low incomes and young people. However, the Council also seeks to avoid potential problems in areas where there are high concentrations of HMOs. To address these issues, the HSPD contains policies HSPD 11 and HSPD 12 which deal with concentrations of HMOs and their impact on the social and physical character and amenity of a street or residential area.
6. These objectives are consistent with the housing guidance within the National Planning Policy Framework (the Framework). In summary it indicates that the environmental, economic and social roles of the planning system include supporting the provision of housing to meet present needs within a high quality environment. To create inclusive and mixed communities, it indicates that there should be a mix of housing based on current and future demographic trends and the needs of different groups in the community. It further advises that planning authorities should identify the type and range of housing that is required in particular locations.
7. Policy CS4 does not set a threshold level for HMOs. However, Policy HSPD 11 indicates that the Council will manage the number of HMOs by seeking to resist further small or large HMOs where there are already 20% or more HMOs within a 100 m radius of the application site, as determined in accordance with a stated methodology. The Council states that the 20% figure is guidance and is not in itself determinative. In this appeal, the Council identifies a concentration of 8.9% of HMOs within 100 m of No 9.
8. The officer's committee report refers to the Council's 2005 *Student Housing Provision Supplementary Planning Document* SPD (Student Housing SPD) which has now been superseded. This document pre-dates amendments to the Town and Country Planning (Use Classes) Order 1987 and changes to permitted development rights. I have not been provided with a copy of the Student Housing SPD; however I am informed that it set out guidance for the control of larger student HMOs, or Large Unmanaged Residences for Students (LURS) including restricting further conversions of Class C3 dwellings to LURS where the percentage of student households in an area exceeded 10%. The appeal proposal is for a smaller HMO and is not specifically targeted at students. The Student Housing SPD was therefore not directly relevant to the appeal proposal.
9. Nonetheless, the officer report states that the Council's practice at the time of writing was to resist in principle any changes of use from Class 3 dwellings to Class 4 dwellings where the percentage of HMOs exceeded 20%. The area of consideration was based on a cluster of small geographic output areas identified by a methodology specified in the SPD, using Council Tax data. As with the HSPD, the Student Housing SPD stated that the Council would not adopt a rigid approach to decision-making, but that the thresholds would be one material consideration to be considered alongside the character, amenity and highway safety considerations identified in Policy CS4 and the Student Housing SPD.

10. The existence of the Student Housing SPD demonstrates that for some years the Council has sought to control the number of larger HMOs in the District to protect the living conditions of local residents and the character of the areas in which they are located or proposed. The introduction of the Article 4 Direction to control smaller HMOs and the adoption of CS policy CS4 and the guidance in the HSPD further demonstrate the Council's intent.
11. I agree with the Council that in high concentrations the transitory occupants of this type of accommodation could lead to the fragmentation and unbalancing of the permanent community, having in a negative effect on its social and/or physical character, the amenity of a street or the wider residential area. An intensity of HMOs could also generate noise and disturbance to the detriment of local amenities, including by reason of the comings and goings of residents of their use of external areas.
12. The Council's evidence sought to establish the number of student households in the vicinity of the appeal property. It indicated that the wider area around the appeal site contains a high number of HMOs and these are often occupied by students. In the officer report, the Council indicated that the level of HMOs in the area of the 'home output area' (or the data area in which the appeal property is located) was 11.7%. This figure is considerably below the 20% threshold identified in both SPDs, whereas within the wider neighbourhood area a level exceeding 40% was identified. Hermitage Road is characterised by a relatively dense form of development, is close to the university campus and is therefore sensitive in terms of future HMO development. This is highlighted by the higher levels of HMOs in the areas beyond the 100 m radius centred on the appeal site.
13. It is clear from the Council's evidence that the 20% threshold set by both the HSPD and the Student Housing SPD would not be exceeded if the appeal were to be allowed. Furthermore, as the Council's guidance states, the threshold approach on its own would be insufficient to show that the proposed development would by itself, or through a cumulative effect, harm the social and physical character or amenity of the street. I go on to consider these matters.
14. Although there might well be other smaller HMO accommodation in Hermitage Road and its surrounding area, such properties were not apparent during my site visit. There was no evidence of poorer standards of property maintenance and repair in the locality. I saw no accumulations of waste and rubbish, littering, flyposting or any proliferation of letting signs or any other of the physical considerations identified in Policy HSPD 12 which would suggest that there is a high proportion of HMOs in the area, or that the existing HMOs had damaged the social and physical character and amenity of the street or residential area as a whole. No other convincing evidence of such effects was presented in this appeal. There is insufficient evidence to demonstrate that the levels of student or other HMO occupation have had a detrimental effect locally, or are likely to. Therefore there is no conflict with policy HSPD 12.
15. Based upon the evidence provided and what I saw, it is my judgement that Hermitage Road and its immediate locality are not at a point where they are becoming dominated by student or other HMO households. The appeal proposal would not in itself or cumulatively produce a high concentration of HMOs or

student households in the area such as to contribute to an imbalance in the make-up of the local community to the detriment of its well-being.

16. The neighbours of the appeal property share the Council's concerns about the potential for noise and disturbance. However, No 9 has 3 bedrooms and would be occupied at a low density. There is no evidence to suggest that its occupiers would be noisier or keep more anti-social hours than other potential residents. Furthermore, the Council's environmental health officers raise no objections in principle to the appeal proposal. I find that there would be no conflict with the criteria set out in policy HSPD 12 in this regard. The appellant indicates that she is a member of the National Landlord Association and DASH, a landlord accreditation scheme. The potential for nuisance applies to all residents and it could be expected that a responsible landlord would ensure that their tenants occupied premises in a manner which respects neighbouring occupiers.
17. The statistics provided by the Council relating to recorded incidents of antisocial behaviour in the wider local area appear to show that students are involved in a minority of cases (5% of 81 reported incidents). However, as noted above, the appeal proposal is not necessarily for student accommodation. But in any event, the evidence does not indicate whether or not the persons involved in the recorded incidents lived in HMOs and this limits the weight that can be given to this evidence.
18. For the reasons set out above I have not identified any conflict with CS Policy CS4, or its associated SPD. For the same reasons I also conclude that there would be no conflict with the provisions of the Framework in respect of the need to safeguard neighbourhood amenity.

Other matters

19. No 9 and the other houses around the green do not have any private parking provision. Whilst neighbours are concerned that the proposed use would lead to more on-street car parking in the locality, the Council has not refused the appeal application on this basis and the Highway Authority has raised no concerns. The site is accessible by public transport and there are local amenities within a reasonable distance from the premises. Furthermore, whilst it appears that the current occupiers of the appeal property do not own a car; other families may well own at least one vehicle. Having regard to the professional advice and my observations made at the site visit, there is no evidence to suggest that allowing the appeal would increase parking pressure over and above that of a family use of the property.
20. I therefore find that there would be no conflict with saved Local Plan Policy TR/18 which requires adequate off-street parking for vehicles in order to secure highway safety and to minimise harm to visual local amenities. Vehicles which are parked dangerously or block accesses should be controlled by other legislation.
21. Allowing this appeal would not preclude its continued or future use as a family dwelling house. Whatever one may think about the type of low cost housing to be provided at the appeal site, this appeal has to be decided on the basis of the merits of the case, including the planning policy and guidance position as it exists at the time of making this decision.

22. The appeal relates to a change of use and no external alterations are proposed. For these reasons I do not consider that the proposal would be contrary to CP Policy CS 2, which requires high quality design and relates to new developments. It appears to me that its criterion for safeguarding living conditions would be more appropriately dealt with under Policy CS 4.

Conclusion

23. For the reasons I have set out above, and taking into account all other matters raised, the appeal should be allowed. No conditions have been suggested and none are required other than the standard time limit condition which I have imposed.

Elaine Benson

INSPECTOR