



Appeal Decision

Site visit made on 8 October 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/X2410/W/19/3234047

214 Ashby Road, Loughborough, Leicestershire LE11 3AE

- 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 Hollie Molloy-Westrop against the decision of Charnwood Borough Council.
 - The application Ref P/18/2476/2, dated 22 November 2018, was refused by notice dated 28 January 2019.
 - The development proposed is change of use of dwelling (Use Class C3) to house in multiple occupation (Use Class C4) and provision of car parking area to front.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Hollie Molloy-Westrop against Charnwood Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development has been amended from the original planning application form and has been agreed by both parties. I have considered the appeal on this basis.
4. The Council have not raised objections to the provision of the car parking area, and I find no reason to disagree with that assessment. As a result, I will not address that matter any further.
5. The Town and Country Planning (Use Classes Order) 1987 was amended in 2010 and a new Use Class (C4) for small houses in multiple- occupation (HMOs) was introduced. An amendment to the Town and Country Planning (General Permitted Development) Order 1995 came into force later that year and set out that a change of use from Class C3 to Class C4 became permitted development, with planning permission no longer required. However, in 2012 following concerns of residents about community imbalance, the Council adopted an Article 4 Direction which removed permitted development rights for changes of use from Class C3 to Class C4. The appeal property is within the area covered by the Article 4 Direction.

Main Issue

6. The main issue in this case is whether the proposal would conflict with the aims of national and local planning policy to create balanced communities, having regard to the level of housing in multiple occupation in the locality and its effect on residential character and the living conditions of nearby residents with regard to noise and other disturbance.

Reasons

7. The appeal site is a semi-detached property located within the Ashby Road Conservation Area, with a hardstanding area to the front of the property. The entrance to the University is located just to the south west of the appeal site, and a Halls of Residence is to the north west. The appeal site is located close to the Epinal Way/Ashby Road roundabout. No alterations are proposed to the exterior of the building as part of this appeal.
8. Policy CS4 of the Charnwood Local Plan Core Strategy (the CS) states that the Council will support the well-being, character and amenity of communities by, amongst other matters, managing the proportion of Houses in Multiple Occupation (HMOs) that individually or cumulatively damage the social and physical character and amenity of a street or area or generate noise and disturbance which is detrimental to amenity. Paragraph 61 of the National Planning Policy Framework (the Framework) states that the size, type and tenure of housing needed for different groups should be reflected in planning policies.
9. The supporting text of Policy CS4 explains that further guidance and policy would be prepared with regard to HMOs, and subsequently the Council adopted the Housing Supplementary Planning Document (the SPD) in 2017. This is a material consideration in determining the appeal.
10. The SPD sets a threshold approach of 20% proportion of HMO within a 100m radius of the site. There is disagreement between the parties as what should be included at the very edge of the boundary. I have noted Paragraph 4.9 of the SPD, which states that, amongst other matters, *'the threshold will provide one material consideration'* and Paragraph 4.11 which explains the position further:- *'there will be instances where the impacts of a new HMO in an area with a low proportion of HMO properties may be judged to be so significant under the provisions of Policy CS4 that planning permission should not be granted. Equally, 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'*.
11. Based on the above, I consider that the threshold level, which is disputed by the parties, only forms one aspect of the assessment, and I am satisfied that the appeal site, when the calculations are made, is close to that 20% threshold limit, whichever side of that figure the parties consider it to be.
12. In terms of the effect on residential character and the living conditions of nearby residents, the character of single-family dwellings can be significantly different from those of an HMO. An HMO can increase the density of occupation which can, in turn, have an effect on the activity generated by both people and vehicles. The occupants of an HMO may have a different lifestyle, resulting in people movement, noise and disturbance at different times of the day and

night in comparison with a single-family dwelling. It follows that the presence of an HMO, whilst not necessarily changing the appearance of the area, can be detrimental to its character.

13. The occupiers of all types of dwelling have the potential to cause nuisance, but there is an acknowledgement in the SPD that higher proportions of HMOs can result in higher incidences of anti-social behaviour, together with the perception of increased crime levels, and the fear that comes with it. This can adversely affect the living conditions of neighbours. I find that the use, when taken cumulatively with the existing level of HMOs, would be harmful to the living conditions of neighbouring residents.
14. Where a sizeable percentage of HMOs are occupied by students, there can be a considerable difference in social interaction and use of services and facilities between busy term times, and holiday periods. This can have a negative effect on the character of the area, and the threshold approach does allow for consistency in the approach to planning applications for such types of occupation and allows the Council to control the levels and concentrations in particular areas. Whilst one additional HMO may appear to be a minor increase in the overall proportion, when taken together with the existing proportion of HMOs in the locality, I find that the proposed use would materially harm the character of the surrounding area, and further imbalance the overall makeup of the community and its well-being.
15. Therefore, I find that the appeal proposals are in conflict with Policy CS4 of the CS, the aims of the Framework in relation to the need for balanced housing, and the guidance set out in the SPD. The Council has also included Policy CS2 but as this relates to the design and effect of new development, I attach limited weight to that policy. I do not find that there are any particular characteristics or other material conditions that would lead to a decision being made in accordance with the policies and guidance identified above.

Other Matters

16. The appeal site lies within the Ashby Road Conservation Area but includes no alterations to the external elevations of the dwelling. The Council considered the impact of the proposal as neutral and raised no objections regarding the matter, and I have no reason to disagree with this assessment. As such, I find that the significance of the Conservation Area would be unharmed.
17. I have noted the statement of the appellant with regards to the type of occupant, and that the appellant considers themselves a responsible owner of the property. However, it cannot be conditioned to restrict the type of occupant, and planning permission relates to the land, and not to the owner. A management plan, as suggested, would also be unenforceable.
18. I have also noted the comments of the appellant in respect of the future use of the property, if the appeal were to be dismissed. The Council would determine any subsequent applications accordingly, if planning permission was to be required.

Conclusion

19. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR