



Appeal Decision

Site visit made on 30 September 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/Q3060/W/19/3222942

33 Forest Road East, Nottingham NG1 4HT

- 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 Gosal against the decision of City of Nottingham Council.
 - The application Ref 18/02328/PFUL3, dated 6 September 2018, was refused by notice dated 31 December 2018.
 - The development proposed was originally described as change of use from C4 HMO dwelling to 2 No. x C3 flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council disputes the appellant's suggestion that existing use of the property is as a House in Multiple Occupation (HMO) referring to the property being on the market as a single dwelling as recently as July 2018. I have no substantive evidence before me to suggest that a change of use to a HMO has been established and I have therefore considered the appeal on the basis of the following revised description on the Council's decision notice:

'Change of use from single dwelling to two flats (Class C3)'

Main Issues

3. The main issues in this case are:
 - Whether the proposal would conflict with the aims of national and local planning policy to create mixed and balanced communities, having regard to the current housing mix in the surrounding area and its effect on residential character;
 - The effect of the proposal on the living conditions of neighbouring residents with particular regard to noise and other disturbance.

Reasons

Housing Mix

4. No 33 Forest Road East is a two-storey semi-detached dwelling located within the Arboretum Conservation Area. Buildings to this part of Forest Road East are predominantly in residential use comprising of a mix of single dwellings, flats and HMOs. However, it was evident on my site visit that there was a high

- proportion of the properties in the area in use as flats and HMOs with a prominent student population. Whilst the proposal is not for a HMO, the Council has an Article 4 Direction in place meaning a change of use from a Class C3 to such a use requires planning permission. This highlights the Council's concern generally in respect of the loss of dwellings suitable for family occupation.
5. Policy 8 (Housing Size, Mix and Choice) of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan (2014) (the ACS) supports a mix of housing tenures, types and sizes. It places an emphasis on providing family housing. Saved Policy ST1 (Sustainable Communities) of the Nottingham Local Plan (2005) (the LP) amongst other things seeks a balanced mix of housing size, type and affordability in the area, particularly promoting housing for families with children.
 6. The appellant suggests the proposal would assist in diversifying the choice of housing available. The Council's adopted policies and supporting text suggest there is a shortage of family homes throughout the City and that the trend has been for an out migration of school children. I have no counter evidence before me to suggest there is a healthy proportion of family housing in the vicinity of the appeal site nor that the viability of local schools is not under threat.
 7. The subdivision of the property and resultant layout for 2 flats would be unlikely to appeal to families. This loss of family accommodation would further dilute the tenure mix of the area and would not assist in retaining a balanced and mixed community. Consequently, this would conflict with the sustainability objectives of the Council's policies and the National Planning Policy Framework (the Framework) to create mixed and balanced communities as well as Paragraph 127 of the Framework which requires that developments function well and add to the overall quality of the area.
 8. My attention has also been drawn to Policy HO2 of the Nottingham City Local Plan Part 2 - Land and Planning Policies Document (LAPP). The LAPP has been through examination and the main modifications period has ended. The Council anticipates that it will adopt the LAPP in early 2020. Given the relatively advanced stage in the process I attach moderate weight to this policy. This emerging policy seeks to address the shortage of homes throughout the City which are suitable and attractive to families. It includes a presumption against the loss of dwellinghouses for family occupation including through sub-division. One of the exceptions to this under the policy is where it can be demonstrated that the property is no longer suitable for family occupation in which case replacement with a new Class C3 use suitable for family occupation is the preferred approach.
 9. The appellant suggests the building is in a state of disrepair and is within a predominantly student area which would not be suitable for a large family and that the private amenity space is not suitable for the needs of a family. From my site visit the building appeared to be in relatively sound condition and could be renovated as required just as would be the case if it were occupied for the proposed use. The location of the property within an area with a high concentration of students does not mean that it would not appeal to any family, particularly given its close proximity to the City Centre and the range of services and facilities it has to offer. The site plan indicates that there is ample private rear amenity space to serve a family dwelling. I am therefore not persuaded that the proposal meets the exception under Policy HO2. Given the

status of this policy, this has not on its own been determinative, however it serves to demonstrate that there are no overriding material considerations in this instance to justify the loss of a family dwelling.

10. For the foregoing reasons, the proposal would not contribute towards a mixed and balanced community and would further dilute the residential character of the area. Consequently, in this regard, the proposal would conflict with Policy 8 of the ACS, Saved Policy ST1 of the LP and the Framework.

Living conditions

11. The evidence before me suggests that the neighbouring semi-detached dwelling at No 35 Forest Road East is in use as a single dwelling. The layout of the ground floor flat would be similar to the existing situation. For the first floor flat, bedrooms would be located next to the party wall and the open plan living area would be positioned away from the shared wall with the neighbour. Consequently, the proposed use would not have a material impact on the living conditions of the occupants of No 35.
12. The likely maximum number of occupants of the two flats over and above the number that might occupy the building as a single dwelling would be marginal. All occupants would share the existing front door as a means of access which is centrally located within the plot. Forest Road East is a well trafficked road in close proximity to the city centre. Even if any additional activity is considered cumulatively with other properties in the area, I am not persuaded by the evidence before me that comings and goings would be highly discernible in this location.
13. To conclude, the proposal would not result in any material increase in noise and disturbance that would be likely to have a detrimental impact on the living conditions of neighbouring residents. The proposal does not therefore conflict with Policy 10 (Design and Enhancing Local Identity) of the ACS, and Saved Policy NE9 (Pollution) of the LP which amongst other things state developments will be assessed in terms of the impact on the amenity of nearby residents or occupiers and that planning permission will not be granted for development which would generate pollutants that would cause significant detriment to users of adjoining land, or the environment. However, this does not overcome the harm identified under the first main issue.

Other Matters

14. The Council's delegated report raises concerns that poor maintenance, inappropriate management of waste disposal and a high turnover of occupants who do not feel connected to the area can have a detrimental impact on the appearance of an area and that this would fail to sustain and enhance the significance of the Arboretum Conservation Area. There is no substantive evidence that this would be the case for the proposal before me. Furthermore, no external alterations are proposed to the building. On this basis, there would be no harm to the character or appearance of the CA as a result of the proposal.
15. My attention has been drawn to a planning application at 46 Albury Drive where the Council took the view that the loss of a family dwelling would assist in diversifying the choice of housing available. All sites differ to some extent and must be determined on their own individual merits, as I have done in this

case. In any event, from the limited evidence provided, I am unable to ascertain whether the housing mix in that particular area was comparable to the situation before me.

Conclusion

16. For the reasons given, the appeal is dismissed.

M Russell

INSPECTOR