



Appeal Decision

Site visit made on 25 September 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 14 November 2019

Appeal Ref: APP/X2410/W/19/3232767

38 Oxford Street, Loughborough LE11 5DR

- 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 Orange Est8 against the decision of Charnwood Borough Council.
 - The application Ref P/19/0086/2 dated 16 January 2019 was refused by notice dated 4 April 2019.
 - The development proposed is retention of change of use from dwelling (Use Class C3) to House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is allowed and planning permission is granted for retention of change of use from dwelling (Use Class C3) to House in Multiple Occupation (Use Class C4) at 38 Oxford Street, Loughborough LE11 5DR in accordance with the terms of the application ref P/19/0086/2 dated the 16 January 2019, subject to the following conditions:
 - 1) Within one month of the date of this decision, a scheme for bin storage facilities shall be submitted to the local planning authority for written approval. The approved facilities shall be provided within one month of the date of the approval of the written details and thereafter maintained and retained for the life of the development.
 - 2) Within one month of the date of this decision, a scheme for parking of cycles, under cover and secure, shall be submitted to the local planning authority for written approval. The approved facilities shall be provided within one month of the date of the approval of the written details and thereafter maintained and retained for the life of the development.

Procedural matter

2. The appeal proposal is in an area where an Article 4 Direction is in force which removes permitted development rights for a change of use from Class C3 dwellings to Class C4 small houses in multiple occupation (HMO). Planning permission is therefore required for such a change of use.
3. The Council altered the description of the appeal proposal. As I am allowing the appeal, I have used the Council's description in the interests of clarity.

Main Issue

4. The main issue is the effect of the appeal proposal 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.
5. The appeal site consists of a two storey end terraced property with a rear extension and detached garage on the corner of Oxford Street and Leopold Street. The prevailing character of the area is of rows of terraced dwellings in a grid style arrangement although there is a takeaway on the corner of Leopold Street opposite the side of the appeal building. The appellant indicates that the adjoining property is an HMO. The internal layout of the dwelling provides five bedrooms with four bedrooms at first floor level and a separate toilet and the fifth bedroom on the ground floor.
6. Policy CS4 of the Charnwood Local Plan 2011-2028 Core Strategy (the Core Strategy) states that the Council will support the well-being, character and amenity of communities by managing the proportion of HMOs that either in themselves, or cumulatively with other HMOs: damage the social and physical character and amenity of a street or area: or generate noise and disturbance which is detrimental to amenity: or generate a demand for on-street parking which would prejudice highway safety or amenity. The Councils reason for refusal specifically refers to the potential for noise and disturbance and unbalancing the local permanent community.
7. The policy's supporting text explains that the University and College are important contributors to the local economy, employment and investment. However, the large numbers of students can negatively impact on the character and social functioning of areas due to over-concentration of HMOs. The Council states that these impacts have affected some community facilities, the character and appearance of the area, and caused disturbance/parking problems. The Council has sought to address these issues in the adopted Housing Supplementary Planning Document Adopted May 2017 (HPSD).
8. The HSPD uses a threshold approach of seeking to resist further HMOs where a percentage threshold of 20% within a defined area has been met. The HSPD takes a 100m radius around the site, which is considered to be representative of the social and physical character of the neighbourhood. Whilst not part of the development plan, the threshold approach allows for applications of this type to be considered in a consistent manner.
9. The number of HMOs in the relevant area for the appeal site is said to be 101 out of 194 properties which is 52.1% of the residential stock. However, the HSPD states that an assessment of the current level of concentration of HMOs will be an important material consideration, but it cannot be regarded as the determining factor in deciding any planning application.
10. With regard to noise and disturbance, the HSPD acknowledges that where there is a high concentration of HMOs it can result in higher incidences of anti-social behaviour, noise and disturbance. Whilst, the Council has referred to HMOs generally increasing noise and disturbance, there is limited evidence that relates directly to the appeal site. The appellant has however provided details of crime reports which indicate that there have

been no reported instances of anti-social behaviour in the vicinity of the appeal site that warranted investigation.

11. HSPD12 refers to consideration of issues such as anti-social behaviour, poor standards of repair, accumulation of waste and rubbish, of crime. However, there is limited evidence before me, that these matters are or would be a cause for concern as a result of the appeal proposal or in the surrounding area or from my site visit.
12. With regard to generating a demand for parking, the garage does form part of the appeal site although the Council's delegated report referring to no on-site parking. There are double yellow lines to the front of the appeal building and a permit scheme operates in the area for residents. I therefore agree with the Council that it would be difficult to argue that the use of the appeal building would be likely to result in additional on street parking that would be detrimental to highway safety. The appeal building is also close to other transport links such as buses and the train station.
13. Allowing the appeal proposal would increase the percentage threshold by a very modest percentage. There is no evidence that occupiers of the appeal site would be any noisier than other potential occupiers. I have limited information to indicate that crime or antisocial behaviour is an issue in the immediate locality. The appeal site is close to transport facilities and the presence of a garage and a condition to require cycle storage and parking would assist in ensuring that parking would not necessarily become any more of an issue than at any other dwelling. I have limited evidence that allowing this appeal proposal would necessarily further fragment or unbalance the local permanent community.
14. On balance therefore, I do not find that the appeal proposal would conflict with Policy CS4 of the Core Strategy and the HSPD. Although the Council has referred to Policy CS2 in its reason for refusal, as it relates to High Quality Design, it is not relevant to the appeal proposal for a change of use. Policy EV1 of the Borough of Charnwood Local Plan 1991-2006 Adopted January 2004 is also referred to. Whilst, I note that criteria vii) refers to safeguarding the amenities of adjoining properties that has to be read in the context of "seeking a high standard of design in all new developments" which is not applicable to the appeal proposal. The Council also cites paragraphs of an earlier version of the National Planning Policy Framework

Other Matters

15. The appeal site is within the Ashby Road Conservation Area. However, as the appeal proposal is a change of use with no external changes proposed, I agree with the parties that the proposal would have a neutral effect upon the character and appearance of the Conservation Area.
16. I have been referred to a number of appeal decisions by the Council which largely refer to the same policy considerations. Whilst those decisions also dealt with the concentration of HMOs, the site specific issues such as living conditions and anti-social behaviour are different. I do not therefore find those decisions to be comparable to the appeal proposal which has to be assessed on its own merits and the evidence before me.

Conditions

17. The Council has suggested two conditions relating to bin storage and cycle provision. I agree that the conditions are necessary in the interests of visual amenity and to encourage alternative means of transport to cars. As the application is retrospective, I consider one month to be a reasonable period for submission of details for both conditions. The appellant proposed two further conditions relating to a property management plan and noise attenuation. With regard to noise attenuation, the Council have not considered the condition to be necessary and I have limited information about the adjacent property which may already have noise attenuation features. The appellant is under a duty to comply with any other legislation such as Building Regulations in any event. I do not consider that a property management plan is necessarily enforceable without further details of what it would consist of.

Conclusion

18. For the reasons given, the appeal is allowed subject to the conditions.

E. Griffin

INSPECTOR