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# Appeal Decision

Site visit made on 9 January 2020

**by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 March 2020**

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**Appeal Ref: APP/Q3060/W/19/3241065**

**1 Forsythia Gardens, Nottingham NG7 2LW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for full planning permission.
  - The appeal is made by Dominique Brady against Nottingham City Council.
  - The application Ref 19/01779/PFUL3, is dated 9 August 2019.
  - The development proposed is the change of use from existing family/single occupancy (C3) dwelling to HMO (C4).
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## Decision

1. The appeal is dismissed and planning permission is refused.

## Preliminary Matter

2. This is an appeal against the non-determination of the application. In its documentation the Council has stated that had it determined the application it would have refused it for 2 reasons. These 2 reasons form the basis of the main issues considered in this appeal.
3. I note that the appellant states that the use of the dwelling for a House in Multiple Occupation (HMO) has already commenced. For the purposes of this appeal I am, however, treating the application as being for a proposed development.
4. The Nottingham City Land and Planning Policies Development Plan Document: Local Plan Part 2 (DPD), which was cited by the Council as an emerging plan at the time the planning application was submitted, was adopted in January 2020.

## Main Issues

5. The main issues are:
  - The effect of the development proposal for the creation of a balanced and sustainable community with particular regard to the housing mix of the surrounding area; and
  - The effect of the development proposal upon the living conditions of neighbouring occupants and the surrounding area.

## Reasons

### *Housing Mix*

6. The appeal dwelling is located close to the University of Nottingham in an area where there are many HMOs. According to a Government commissioned research report cited by the Council called "Evidence Gathering: Housing in Multiple Occupation and possible planning responses – Final Report" published in 2008, high concentrations of HMOs in urban areas can present significant challenges. These include, for example, anti-social behaviour in the form of noise and imbalanced and unsustainable communities. Housing used for HMOs is housing that is unavailable for family use.
7. Consequently, in order to promote the maintenance of sustainable, inclusive and mixed communities Council policy has been to restrict proposals for new HMOs in areas of high concentration. The Council's Building Balanced Communities Supplementary Planning Document 2007 (SPD) defined a high concentration of HMOs as being 25% of the housing stock within an area. Policy HO6 of the new DPD states that the restriction applies where the level of HMOs exceeds 10% of the area's housing stock. According to the Council the level of HMO households within the area around the appeal site is close to 45% of the housing stock.
8. The appeal property is a relatively modern 2-storey 3-bedroom dwelling. It includes a lounge, kitchen and bathroom and parking for 2 cars. It is located at the end of a short row of similar properties on the corner of Penn Avenue and Gregory Street in Nottingham. The development proposal comprises the change of use from a C3 dwelling to a C4 HMO.
9. I note that the proposal is for just one additional HMO. Nevertheless, I consider that the cumulative effect of each proposal jointly and severally undermines the overall objective of the policy.
10. Thus, based upon the above I conclude that the development proposal would damage the housing mix and the sustainability of the community. I find, therefore, that the proposal would conflict with policies H2, H6 and ST1 of the Nottingham Local Plan 2005 (LP) which seek to ensure, respectively, that new development respects the character of the area and does not prejudice the maintenance of balanced communities.
11. It would also conflict with Policy 8 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014 (ACS) which seeks to redress the housing mix in areas with high levels of HMOs. It would also conflict with policies HO2 and HO6 of the DPD which seek, respectively, to ensure that new development does not lead to a loss of C3 dwelling houses or a significant concentration of HMOs within an area.
12. Finally, I find that it would conflict with advice set out in the SPD which seeks to create and maintain balanced communities through restricting the numbers of HMOs in areas with high levels of student occupation. I consider that this SPD reflects the principles identified in the Council's development plan.

### *Living Conditions of Neighbouring Occupants*

13. The appeal proposal comprises 3 bedrooms which could accommodate up to 6 adults. In stating this, I am aware that were there to be 5 or more occupants then a new HMO license would be required from the Council. The granting of a license would be subject to compliance with, among other things, minimum room sizes and a minimum level of facilities provision.
14. The appeal property is located within a larger planned estate in which the dwellings are arranged in rows of varying length and are close to one another. There are no roads within the estate. I formed the impression that the estate appeared to be very quiet and well established.
15. The property is part of a terrace of 4. Consequently, it is in close juxtaposition to several houses. Use of the house for up to 6 adults would result in increased comings and goings in what appears to be a quiet area. This would lead to greater noise, increased competition for parking spaces within the neighbourhood and possible problems associated with the disposal of household waste.
16. Because of the increased intensity of usage that the appeal property would be subject to with up to 6 adults sharing one dwelling but living as a set of separate households, I conclude that the development proposal would fail to provide for the satisfactory living conditions of current and future neighbours. Consequently, I find that the proposal would conflict with policies H6, NE9 and T3 of the LP which seek to ensure that new development protects the living conditions of neighbouring occupants, does not cause noise pollution and does not result in parking problems.
17. It would also conflict with Policy 10 of the ACS and policies DE1, HO6 and TR1 of the DPD which, respectively, seek to ensure that new development protects the living conditions of neighbouring occupants and ensure that new development provides adequate car parking.
18. It would conflict with advice set out in the SPD which seeks to minimise any adverse impacts upon the surrounding community. Finally, I consider that the proposal would conflict with the advice set out in paragraph 127 of the Framework that new development should maintain a high level of living conditions for neighbouring occupants.

### **Other Matters**

19. I note that the appellant states that she has obtained an HMO licence from the Council allowing 3 people to live at the property. However, this licensing procedure falls within a separate regulatory regime to that governing a planning application for a change of use and different considerations apply. Thus, obtaining an HMO licence does not imply that the necessary planning permission will be granted. In determining this appeal, I have had regard to the development plan and other material considerations.

**Conclusion**

20. For the reasons set out above the appeal is dismissed and planning permission is refused.

*William Walton*

INSPECTOR