



Appeal Decision

Site visit made on 14 January 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2020

Appeal Ref: APP/W3710/W/19/3238303

56 Aston Road, Nuneaton CV11 5EJ

- 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 Mrs P Ugbene against the decision of Nuneaton & Bedworth Borough Council.
 - The application Ref 036484, dated 15 June 2019, was refused by notice dated 11 September 2019.
 - The development proposed is change of use from commercial unit to 10 x HMO bedroom with loft conversion and single storey extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was originally for a 10-bedroom house in multiple occupancy (HMO) and also included a single-storey extension and loft conversion. During the application process the proposal was amended to an 8-bedroom HMO and the single-storey element and loft conversion were removed. I have determined the appeal on the basis of the amended proposal.

Main Issues

3. The main issues are the effect of the proposal on: i) the living conditions of neighbours with regard to noise and disturbance; and ii) the living conditions of the future occupants of bedroom 5 in respect of noise.

Reasons

Living conditions (neighbours)

4. The appeal site comprises 56 Aston Road a terraced property which is located on the western side of this road. Properties either side and opposite the site mainly comprise terraced houses. To the rear is Aston Park Industrial Estate which includes a range of commercial and industrial units.
5. The appeal property is larger than neighbouring properties and incorporates a central entrance, which is partly screened from neighbouring properties. The property has an extant use for offices falling within Use Class B1(a). The Council has also determined that prior approval to change the use of the appeal property from offices to dwellinghouse (Use Class C3) is not required¹.

¹ Ref: 036719 - Notification for Prior Approval for Proposed Change of Use from Office (B1a) to dwellinghouse (C3)

Accordingly, the appeal property could be used as offices or a dwellinghouse. Furthermore, I concur with the main parties that as a dwellinghouse, planning permission would not be required to use the property as a HMO for up to six people (Use Class C4). The appellant relies on these extant and permitted uses as the 'fallback'.

6. I have taken account of the above 'fallback' uses including the size of the appeal property and level of accommodation and activity it could support. Notwithstanding this, on the information available to me, the appeal scheme would be materially different. In particular, to facilitate the proposal, the new front entrance to the appeal property would be relocated closer to the neighbouring dwelling at 58 Aston Road (No 58).
7. Consequently, and despite the lack of objection from the Council's Environmental Health team, in my view, the 'comings and goings' associated with 8 individuals leading separate lives with varying patterns of activity, along with associated visitors and deliveries, would be particularly intensive. This activity would include people entering and leaving the property via the proposed entrance, along with waiting and conversing near it. This extent of intense activity in close proximity of the door and window to No 58, would manifest in appreciable additional noise and disturbance throughout the day, to the significant detriment of the living conditions of the occupiers of this property.
8. For the above reasons, the proposal would harm the living conditions of neighbours with regard to noise and disturbance. Consequently, I find conflict with Policy BE3 of the Nuneaton and Bedworth Borough Plan 2019 (NBBP) which amongst other things requires development proposals to be designed to a high standard to safeguard existing characteristics of an area which includes residential amenity.
9. Accordingly, I also find conflict with the aims of the National Planning Policy Framework ('the Framework') which amongst other matters seeks to offer a high standard of amenity for existing users.

Living conditions (future occupants)

10. The proposal introduces a rear facing first-floor window to bedroom 5. The Council's Environmental Health officer initially expressed concern that the proximity of this window to the Aston Park Industrial Estate would expose the future occupant of this bedroom to noise associated with industrial and commercial activity at the industrial estate.
11. At appeal the appellant has provided an Environmental Noise Survey and Assessment. The outcome of this assessment is that mitigation treatment in the form of specific glazing and ventilation for windows would allow reasonable internal ambient sound pressure level criteria to be achieved in habitable rooms, i.e. bedrooms and living rooms. Based on this, a condition requiring the proposed mitigation would address this particular issue. Subject to this, and with specific regard to the living conditions of future occupants of bedroom 5, I find no conflict with Policy BE3 of the NBBP, which amongst other things seeks to protect residential amenity.

Other Matters

12. I have taken account of the location of the site and its accessibility to shops services and facilities, which the new residents would also support. The proposed scheme would also deliver the type of accommodation needed in the area. It would also bring a vacant property back into use along with improvements to its fabric and insulation which would improve its appearance and carbon footprint, respectively. These matters carry some support from the development plan and the Framework. However, the appellant has identified 'fallback' uses for the site, and given the modest scale of the proposal, the benefits of the proposed scheme would be limited and do not outweigh the significant harm I have already identified and overall conflict with the development plan and the Framework.
13. The appellant has drawn my attention to an appeal decision² where the Inspector concluded that an additional 2 people residing at a property which could already accommodate up to 6 individuals was unlikely to create a notable difference in activity. However, based on the limited information available to me the type of property and its surroundings are different to that associated with the appeal before me. In any event, all appeals are judged on their own individual merits. Accordingly, I have determined the appeal before me on the site-specific circumstances of the proposal and its surroundings.
14. Although the appellant asserts that the extant offices comprise a non-conforming use, by definition Use Class B1(a) is a type which could be carried out in any residential area without detriment to the amenity of that area by reason of, amongst other things, noise³.
15. I have taken into account the other concerns raised locally but given the identified harm and development plan conflict outlined above they have not affected my overall decision.

Conclusion

16. Although I have found that subject to securing appropriate mitigation, the proposal would not harm the living conditions of the future occupiers of bedroom 5, this does not outweigh the significant harm I have identified with regard to the living conditions of neighbours and the overall conflict with the development plan. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR

² APP/U4610/W/18/3213911

³ The Town and Country Planning (Use Classes) Order 1987