
Appeal Decision

Site visit made on 14 July 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

Appeal Ref: APP/Q3060/W/20/3249238
21 Fenwick Road, Nottingham NG8 6FY

- 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 Liam Reid against the decision of Nottingham City Council.
 - The application Ref 19/02786/PFUL3, dated 14 December 2019, was refused by notice dated 5 February 2020.
 - The development proposed is change of use from a C3 (Family Dwellinghouse) to a C4 (House in Multiple Occupation).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of the development in the banner heading from the appeal form as this accurately and concisely describes the development and I have determined the appeal accordingly. However, I have noted the comments in the description section of the application form, and I have taken these into consideration in reaching my decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - a) the loss of a family sized dwelling on the wider need to create and maintain a balanced and sustainable community; and,
 - b) the living conditions of the neighbouring properties with regard to noise and disturbance.

Reasons

Family dwelling

4. Policy 8 of the Nottingham City Aligned Core Strategies Part 1 Local Plan (ACS) adopted September 2014 places an emphasis on providing family housing. The implementation of Policy 8 is supported by Policies HO1 and HO2 of the Land and Planning Policies Development Plan Document - Local Plan Part 2 (January 2020) (LAPP). Policy HO1 states that where sites are capable and suitable of accommodating family housing such development will be encouraged. The text to the policy explains that as Nottingham City Council has a proportion of homes suitable for families that is below the national average, if a site is capable and suitable for accommodating family houses and its location is

- appropriate, then the development should deliver family houses as opposed to other forms of residential accommodation.
5. The policy identifies that the problem of the provision of family housing is exacerbated by many family houses being occupied as Houses in Multiple Occupation (HMOs). In terms of Policy HO1 a larger family house is likely to have four or more bedrooms and have a private enclosed garden.
 6. Policy HO2 of the LAPP sets out a presumption against the loss of dwelling houses (Use Class C3) for family occupation, including through the conversion to Use Class C4. Exceptions to this presumption include where local evidence of housing need and demand indicates that an alternative mix of housing is appropriate, where alternative provision meets other housing priorities or other regeneration aspirations or where an applicant can demonstrate that the property is no longer suitable for family occupation.
 7. There is no indication in the evidence that HMO accommodation is in high demand nor that HMOs are a priority that justify a reduction in family housing provision. In addition, the appeal property has more than four bedrooms and an enclosed rear garden and is ideally suited for family occupation. Further, the text to Policy HO2 indicates that the Council have imposed an article 4 direction to control the use of single dwelling houses as HMOs to avoid further concentration of HMOs and to protect the current stock of housing available for family occupation. I therefore do not agree that it is a regeneration aspiration of the Council to support HMO accommodation per se.
 8. I accept that the appellant has confirmed that the space standards within the property would meet HMO licensing requirements and I saw at my site visit that the accommodation is of a high standard. However, these matters do not imply that the property is no longer suitable for family occupation. Overall, I consider that the presumption against the loss of dwelling houses in Policy HO2 has not been evidenced.
 9. Policy HO6 of the LAPP states that planning permission for changes of use to create an HMO will only be granted where there is no conflict with Policies HO1 and HO2 and does not undermine local objectives to create or maintain sustainable, inclusive and mixed communities. As I find there to be a direct conflict with Policy HO2, the proposal cannot meet this policy.
 10. Further, Policy HO6 indicates that in considering the impact on local objectives to create or maintain sustainable, inclusive and mixed communities regard will be given to the existing proportion of HMO's in the area and whether this will amount to a 'significant concentration'. Neither the Council nor the appellant have provided evidence to establish the current concentration of HMO accommodation. I therefore cannot conclude that there is a significant concentration of HMO's in the area.
 11. However, as I have found that the requirements of Policy HO2 are not met, for the reasons set out above, I conclude that the development would result in the loss of a family sized dwelling which would harm the wider need to create and maintain a balanced and sustainable community. As such, it would conflict with Policies HO1, HO2 and HO6 of the LAPP.

Living conditions

12. The appeal property is an end of terrace house in an area characterised by similarly designed short blocks of terraces or semi-detached houses set back from the street frontage. The property has been considerably extended and provides accommodation on three levels. The layout indicates that the appeal property would provide six bedrooms for HMO accommodation.
13. As a result of the curve in the estate road the property to the east (No 23 Fenwick Road) faces slightly away from the appeal site. The rear extension at the appeal property is set away from the joint boundary with No 19 Fenwick Road with doors and windows of the extension facing the garden. Although there is pedestrian access around the appeal site to access No 19 the rear garden boundaries of the appeal site are defined by high fencing and the garden is contained with a good level of privacy.
14. There is potential for each occupant of the proposed HMO to have individual schedules, deliveries and visitors and there is likely to be some intensification of the properties use compared to its occupation as a family dwelling. However, I consider that the appeal site is sufficiently separated from its neighbour for the HMO to operate without detracting from their living conditions. There is adequate space for bin storage and there is no evidence that the property would be poorly maintained.
15. Fenwick Road is a typical residential street with most of the traffic along it associated with access to individual properties. The design of the road is on a slight curve and a considerable number of properties adjacent to the appeal site have dropped kerbs which limits the amount of available on road parking. The evidence before me indicates that there would be two off road parking spaces and the site is located in an area that appears to have reasonable access to services and facilities and access to public transport.
16. There was no indication during my site visit, and there is no evidence before me, that the development would lead to increased pressure for on street parking that would cause inconvenience to local residents or detract from the living environment for the neighbouring properties.
17. I note that the appellant indicates that the property would provide care for adults with physical or mental disabilities with staff living in. However, the appellant is not seeking a permission that would limit the use of the HMO to a certain sector of the population and in any case I am not satisfied based on the limited evidence before me that a restriction on the type of occupants would meet the relevant conditions tests set out in the National Planning Policy Framework. Consequently, I attach very limited weight to the evidence of the type of occupants proposed to be accommodated.
18. However, overall, I am satisfied that the proposal would not harm the living conditions of the neighbouring properties with regard to noise and disturbance and would accord with the requirements of Policy 10 of the ACS and Policies DE1 and TR1 of the LAPP. These policies seek to ensure that development creates attractive, safe and healthy environments by among other things assessing development in terms of its impact on the amenity of nearby residents and ensuring satisfactory modes of travel to minimise the use of the car and adverse effect to neighbouring properties.

Conclusion

19. The proposal would result in the loss of a property that is suitable for family housing. While the proposal would not cause harm to the living conditions of the neighbours this does not outweigh the harm that would be caused by the loss of a family sized dwelling on the wider need to create and maintain a balanced and sustainable community. Therefore, for the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR