
Appeal Decision

Site visit made on 14 July 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2020

Appeal Ref: APP/Q3060/W/20/3249353

31 Lismore Close, Nottingham NG7 3BW

- 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 Yaobin Ma against the decision of Nottingham City Council.
 - The application Ref 19/01671/PFUL3, dated 29 July 2019, was refused by notice dated 16 October 2019.
 - The development proposed is change of use from family dwelling (C3) to a House of Multiple Occupation (C4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Nottingham City Land and Planning Policies Development Plan Document (LAPP) was adopted in January 2020, after the original application was determined by the Council. The LAPP forms Part 2 of the Local Plan, with Part 1 being the Nottingham City Aligned Core Strategy (ACS) against which the original application was assessed. The LAPP now forms part of the development plan, and as such this appeal will be determined in accordance with both the ACS and the LAPP. The Nottingham Local Plan (2005), including Policies ST1, H2, H6 and NE9 as well as the Building Balanced Communities Supplementary Planning Document, against which the original application was assessed, have been superseded by the LAPP. The Council in its appeal statement continued to refer to the LAPP as an emerging document. I therefore provided the parties with an opportunity to comment on the adopted development plan. I have taken into account the comments received and considered the appeal accordingly.

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 family house is likely to be no more than three storeys, have a private enclosed garden and have three or more bedrooms, two of which will be capable of double occupancy.
6. Policy HO2 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 includes 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. The appellant indicates that the property is already in use as an HMO and is occupied by post graduate students. Such students usually require accommodation for three to nine months and often find it difficult to secure accommodation for this limited period. Although I accept that post graduate students may have specific housing requirements, I have not been provided with a mechanism where the occupation of the property could be limited to such students. Further, there is no indication in the evidence that HMO accommodation is in high demand nor that HMOs, whether for graduates or otherwise, are a priority that justify a reduction in family housing provision.
8. The property has no garden and the appellant considers, having regard to the Council's description in the text to Policy HO1, that the property is not suitable for family occupation. I accept that the Council consider that family houses are likely to have a garden. However, I do not consider that the lack of a garden precludes the property from being suitable for family occupation. I observed at my site visit that the property has access via footpaths to open space and the internal layout would accommodate a family. The appellant has not provided any evidence that the property has been found unsuitable and unattractive to meet the needs of a family. Based on the evidence before me and my observation at the site I consider that the property would be suitable for a family. Consequently, I consider that the exceptions to the presumption against the loss of the dwelling house in Policy HO2 have 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 local objectives to create or maintain sustainable, inclusive and mixed communities are not undermined. 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'. Appendix 6 of the LAPP indicates that a percentage of 10% or more will determine that the area concerned has a 'Significant Concentration'
11. The Council indicate that 'recent HMO data' indicates that the average concentration of HMO properties 'for surrounding output areas' is 26.4%. The Council say that this indicates an overconcentration of HMO accommodation. The appellant has not provided any evidence to dispute the Council's figures and I note the letter of objection and the generic points made that the area is saturated with HMOs and over-burdened with students. Consequently, based on the evidence before me, the proposal would result in a significant concentration of HMOs in the area and would conflict with Policy HO6.
12. I therefore conclude that the development would result in the loss of a family sized dwelling to the detriment of 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 as set out above.

Living conditions

13. The property is an end of terrace three storey house located in a row of similarly designed houses accessed from Lismore Close. There is one car parking space to the front of the property and a limited amount of unrestricted on street parking opposite the site. Adjacent to the property is a garage parking court. There is footpath access around the appeal property for the row of terraces and this footpath connects to the wider footpath network within the estate.
14. The layout plan indicates that there is a kitchen/dining room on the ground floor with three bedrooms and living accommodation on the two floors above. Access into the property is from either side with access to the rear under the cantilevered upper storeys of the building.
15. The property is located adjacent to a parking area and footpath and has a limited number of bedrooms. I do not consider that the change to an HMO would be likely to materially affect the living conditions of the neighbours since the use of the house by a single family could generate a similar amount of activity, noise and disturbance in and around it.
16. I saw at my site visit that the property is located where services and facilities are accessible by other means than the car. 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. 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 which seeks 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 the need to reduce the dominance of motor vehicles.

Conclusion

18. 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 neighbouring properties 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