



Appeal Decision

Site visit made on 6 July 2019

by Conor Rafferty LLB (Hons), AIEMA, Solicitor

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2020

Appeal Ref: APP/Q3060/D/20/3251743

5 Henry Road, Lenton, Nottinghamshire NG7 2DR

- 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 David Orange of Orange Student Properties against the decision of Nottingham City Council
 - The application Ref 20/00047/PFUL3, dated 8 January 2020, was refused by notice dated 11 March 2020.
 - The development proposed is described as a single storey rear lean to extension.
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Decision

1. The appeal is allowed, and planning permission is granted for a single storey rear lean to extension at 5 Henry Road, Lenton, Nottinghamshire NG7 2DR in accordance with the application Ref 20/00047/PFUL3 dated 8 January 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Proposed Rear Extensions to Existing Houses, Scheme Proposal II, Drawing No. 2081/19/04 dated December 2019.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issues are the effect of the development on (i) the maintenance of a balanced community, with particular regard to the proportion of houses in multiple occupation (HMO); and (ii) the living conditions of the occupiers of neighbouring properties, with particular regard to noise, disturbance and parking

Reasons for the Recommendation

Balanced community

4. The appeal property is a mid terrace three storey dwelling in a residential area. It is currently in use as a HMO for students, and contains six bedrooms in addition to shared living space.
5. The proposal relates to the erection of a single storey rear extension to create an enlarged communal kitchen, dining and living area. Policy HO6 of the Nottingham City Council Local Plan Part 2 Land and Planning Policies January 2020 (the LPP) states that the extension or alteration of existing HMOs will only be granted where: (i) it does not conflict with Policies HO1 and HO2; and (ii) does not undermine local objectives to create or maintain sustainable, inclusive and mixed communities.
6. Policy HO1 and HO2 seek amongst other things to ensure that development would create and maintain sustainable and balanced communities. However, the appeal property is currently in use as a HMO for students and, from the information before me, has been in such use for a number of years. Regardless of the outcome of the current appeal it seems highly unlikely that the property would be converted back into use for family housing, given the long standing tenure and the location of the property within an area with a very high concentration of HMOs. In that sense, the proposal will not lead to the material change of use of a property that would be available for other forms housing, or the loss of any existing family or other housing in the area. In this respect, the proposal does not conflict with the overall objectives of Policies HO1 and HO2. In terms of Policy HO1 the development would have no effect on the housing mix of the area and, in relation to Policy HO2 the proposal would not result in the loss of an existing family dwellinghouse.
7. With regards to the local objectives to create or maintain sustainable, inclusive and mixed communities, Policy HO6 states that regard should be had to the characteristics of the site and locality; evidence of existing HMOs in the locality that impact on local character and amenity; and the impact of the development on the local character and amenity. In addition, Policy HO6 sets a 10% threshold of non-family households within an area to indicate when communities are considered to be unbalanced
8. The immediate area surrounding the appeal site is characterised by its residential nature. It contains a large number of other HMOs rented to students, and the parties are in agreement that the current percentage of non-family households in the area is 84.3%. Accordingly, the area is considered to be unbalanced, with a significant concentration of HMOs. However, the range of housing types in the area will remain unchanged by the addition of the proposal. This will have a neutral effect on the housing mix by being positioned on an already established HMO in a wider area characterised by a large number of HMOs. Furthermore, the proposal would represent a modest extension to the rear of the property built in materials to match the existing property, such that it would not have an unacceptable visual effect on the streetscene.
9. Whilst the extension would both reduce the amenity space and increase the internal floorspace at the property, it would involve no increase in the number or size of the existing bedrooms or occupancy capacity. The potential for additional occupancy to be accommodated in the future as a result of the increase in floorspace is acknowledged. However, due to the open plan nature of the living, dining and kitchen areas proposed, such opportunities would require further development and, in any event, I must judge the appeal on the plans before me. These plans demonstrate that the current communal spaces at the property are limited and as such there is no reason to doubt that the facilities proposed are reasonably

necessary for the purposes of improving living conditions for the occupiers of the property.

10. It is a moot point as to whether subsection 1(b) of Policy HO6 seeks to control all extensions to HMOs or just those which would lead to additional occupiers/ bed spaces. In other words, whether extensions to existing HMOs that would not lead to additional occupiers or bed spaces actually fall under the scope of the policy. The subsection refers to '*Alterations/ alteration of existing HMOs, including development that facilitates an increase in the number of occupiers/ bed spaces*'. When read properly the sentence would appear to relate to all extensions. The use of the words '*including* (my emphasis) development that facilitates an increase.....' merely confirms that the policy includes such development but does not necessarily exclude other forms of extension. Whether that was the intention is unclear. However, I find no reason to reach a conclusion on the matter in this instance because, in any event, the scheme would not further intensify the existing use of the appeal site as a HMO and, in that respect, would comply with the overarching aims of Policy HO6.
11. For all of these reasons, I therefore conclude that the scheme would not unacceptably harm the maintenance of a balanced community as the scheme would have a neutral effect on the existing HMO proportion in the local area, and would not conflict with Policy 8 of the Greater Nottingham Broxtowe Borough Gedling Borough Nottingham City Aligned Core Strategies Part 1 Local Plan adopted September 2014 (the ACS), or Policies HO1, HO2 or HO6 of the LPP.

Living Conditions

12. The Council suggests that the as the proposal would reinforce and intensify the use of the appeal property as a HMO, this would be detrimental to neighbouring occupiers in terms of noise and disturbance and an increased demand of on street parking.
13. I have addressed above that the proposal would not represent an intensification in the use of the property. As such, there would be no increased 'comings and goings' at the property as a result of the proposal which could lead to an increase in noise and disturbance. Furthermore, considering the nature of the proposal and the lack of increase in the number of people living at the property, the existing on street parking, which appears to be regulated by permits, would not be impacted. As such, based on what I have before me, I am not persuaded that the development would lead to material harm in this regard.
14. The Council also stated that the continued use of the dwelling as an HMO might lead to an increase in anti-social behaviour, poorly maintained property and inappropriate management of waste disposal. However, no specific evidence has been provided which relates to the appeal property or this area in terms of waste management or anti social behaviour. There is not any indication that the building in question is poorly maintained, or that the development of the proposal would result in this.
15. In conclusion, I find there would be no material harm to the living conditions of nearby occupants directly arising from the development proposed. Accordingly, there would be no conflict with Policy 10 of the ACS and Policies HO6 and DE1 of the LPP.

Other considerations

16. While the property lies within the New Lenton Conservation Area (the CA) it is agreed between the parties that the proposal would not cause harm to the CA. I have no reason to conclude otherwise. Due to the location of the proposal in an established residential area, it would not fail to preserve or enhance the character or appearance of the CA.
17. I have been provided with a copy of other appeal decisions relating to HMOs in the same Council area. Although consistency in decision making is important, I do not have full details of those cases in front of me. Whilst there are some factors that appear similar to the proposed development, the examples are located in a different area with different development and locational characteristics to the appeal scheme, specifically with regard to the mix of housing in the areas in question. Each appeal must be decided on its own site specific circumstances and appeals involving HMOs will inevitably result in different decisions being made because the relevant policies require an assessment of the local situation with regard to the mix of properties in any given area and the nature of the accommodation itself. Thus, reference to other appeals has not altered my decision which is based on the specific circumstances of the case.

Conditions

18. The standard time limit condition as well as a condition that the development is carried out in accordance with the approved plans are necessary in the interests of certainty. I have also imposed a condition which requires the materials to match the existing dwelling in order to safeguard the character and appearance of the area.

Conclusion and Recommendation

19. Having had regard to all matters raised, I recommend that the appeal should be allowed and planning permission should be granted for a single storey rear lean to extension at 5 Henry Road, Lenton, Nottinghamshire NG7 2DR in accordance with the application Ref 20/00047/PFUL3 dated 8 January 2020, subject to the conditions at paragraph 1 of this report.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the appeal should be allowed and planning permission should be granted for a single storey rear lean to extension at 5 Henry Road, Lenton, Nottinghamshire NG7 2DR in accordance with the application Ref 20/00047/PFUL3 dated 8 January 2020, subject to the conditions at paragraph 1 of this report.

C Preston

INSPECTOR