The Planning Inspectorate

Appeal Decision

Site visit made on 22 July 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2020

Appeal Ref: APP/X2410/W/20/3251600
49 Fearon Street, Loughborough LE11 5DG

- 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 Edward Sykes against the decision of Charnwood Borough Council.
- The application Ref P/20/0064/2, dated 14 January 2020, was refused by notice dated 10 March 2020.
- The development proposed is the change of use of dwelling (Use Class C3) to a small house in multiple occupation (use Class C4).

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the proposal would accord with the aims of national and local planning policy to create balanced communities, having regard to the level of housing in multiple-occupation in the local area, its effect on residential character and on the living conditions of neighbouring residents with regard to noise and other disturbance.

Reasons

Creating balanced communities

3. The appeal relates to a mid-terrace, two storey building located on Fearon Street, a short distance off Ashby Road which forms a main thoroughfare between the town centre and Loughborough University. The site lies within the Ashby Road Conservation Area.

4. Policy CS4 of the Charnwood Local Plan Core Strategy (2011-2028) (November 2015) (the CS) states that the Council will support the well-being, character and amenity of communities by, amongst other matters, managing the proportion of Houses in Multiple Occupation (HMOs) that individually or cumulatively damage the social and physical character and amenity of a street or area or generate noise and disturbance which is detrimental to amenity. This reflects the approach of the National Planning Policy Framework (the Framework) to creating mixed and balanced communities and its requirement that the size, type and tenure of housing needed for different groups should be reflected in planning policies.

5. The supporting text of Policy CS4 sets out that student housing within HMOs is concentrated in Loughborough given the presence of the University and

College, the limited amount of purpose built student housing and desire of many students to live off-campus. The text acknowledges the significant economic, social and cultural contribution the student population brings to Loughborough, but that there are also negative impacts experienced in some neighbourhoods because of the overconcentration of HMOs. These include adverse impacts on community facilities, the character and appearance of the area and disturbance and parking problems. It is evident that the Council has been seeking to control the number of HMOs in Loughborough for some time, as demonstrated by the introduction of an Article 4 Direction in 2012 to prevent the change of use of a dwellinghouse (Class C3) to a smaller HMO (Class C4) without planning permission, and the Council's adoption of the Housing Supplementary Planning Document (SPD) in 2017, which I have taken into account as a material consideration.

6. The SPD adopts a threshold approach to HMO development, whereby the Council will seek to resist further HMOs, small or large, where there are already 20% or more of properties in HMO use within a 100 metre (m) radius of the site. The SPD explains that exceeding this threshold is not the determining factor in applications, and that the existing concentration of HMOs in an area, and the relative impact of adding further to this concentration, are further factors which should be taken into account.

7. The appellant describes the threshold as 'arbitrary'. However, I note from another appeal[1] that the 20% threshold has been part of the Council's guidance as far back as the preceding SPD of 2005, and the current SPD was subject to public consultation before adoption. The Council's calculation method emerged from a study undertaken by LU and draws data from several sources and scores properties according to the strength of the evidence that they are in HMO use. On the evidence before me, I have no reason to doubt the basis for the Council's longstanding use of the 20% threshold, or how it is calculated for individual cases, and I consider that it provides for consistency in assessing planning applications for changes of use to HMOs. I also note this approach has been accepted by Inspectors at appeal in several decisions referred to me.[2] I therefore attach considerable weight to the threshold.

8. In this case, the Council identifies 92 properties within a 100m radius of the appeal site, of which it states that 52 are known to be in HMO use, a concentration of some 56.5%, which would rise to 57.6% as a result of the proposal. The appellant does not appear to dispute this figure, but argues that the proposal would represent only a 1.08% increase in the proportion of HMO properties within the 100m radius, and such an effect would be '*de minimis'*.

9. The appellant also refers *A study of Housing in Multiple Occupation (HMO) in Charnwood* (December 2018) (the HMO Study) which forms part of the Council's evidence base informing its new local plan and which indicates that 12.2% of households in the Storer ward, in which the site lies, are student occupied HMOs. However, it indicates that the percentage of HMOs overall, both student and non-students, in Storer is 25.3%[3]. However, I place more weight in the 100m radius measurement which is part of the adopted SPD, and is more specific to the appeal site than a ward measurement. In this case, the concentration of HMOs in within the 100m radius is significantly above the SPD

[1] Appeal Ref: APP/X2410/W/16/3157734
[2] Appeal Refs: APP/X2410/W/17/3188165; APP/X2410/W/19/3234047; APP/X2410/W/19/3243278
[3] Table 3, Pg 18

threshold, equating to more than half of the dwellings in the immediate vicinity, and whilst this is not determinative, it strongly suggests that HMOs are becoming dominant in the immediate area and the character of Fearon Street is already under threat. Allowing one further HMO may appear insignificant in itself; however, it would add to the concentration of HMOs and student households in the area.

10. The SPD states that where the mix and balance of a community is threatened by the dominance of one group to the exclusion of others it can lead to both social and physical problems developing. Where there is a high proportion of HMOs in student occupation, this can lead to a sharp contrast between busy term times and a sense of abandonment during the holidays which impact on social interactions, surveillance and local services and facilities. I agree that such a fluctuation in activity levels and turnover of residents would have a destabilising effect on the local community. The appellant refers to the fact that they look to occupy their student accommodation over the summer on a short-term basis. However, whilst that may prevent vacancies, it would conversely exacerbate the churn of occupants and would not help the cohesion of the neighbourhood or community spirit.

11. A high concentration of HMOs also means those wishing to rent or purchase a home for themselves may face less choice or being priced out by landlords looking to invest in properties for commercial purposes. A downturn in the proportion of owner occupied properties may also threaten the viability of community facilities, particularly where a large student population exists that will tend to make use of facilities on campus rather than in the community.

12. On site, I saw several student letting signs in windows, and other properties showing signs of vacancy during what was a summertime site visit, which offers some illustration of the Council's concerns with seasonal abandonment. In my experience, HMOs tend to be less well maintained as occupants do not hold a long-term interest in the property, and I saw a lack of upkeep and rubbish visible to the fronts of some properties. An increase in HMOs would increase the extent of such trends and the cumulative effect would adversely affect the character and appearance of what is an attractive street of traditional, red brick terraced housing.

13. In reaching a view, I have also had regard to two allowed appeals[4] referred to by the appellant, one of which related to a proposal where 52.1% of dwellings were found to be in HMO use, but in which the Inspector had limited evidence of anti-social behaviour, poor standards of repair, accumulation of waste and rubbish. In the other case, the concentration of HMOs was found to be 8.9% and thus below the SPD threshold. Ultimately, I do not have full details of the evidence before the Inspectors in these cases, meaning direct comparisons are difficult to draw, and I have therefore assessed this proposal on its own merits.

14. Therefore, for the reasons set out, the cumulative effect of the proposal with other HMOs in the area would harm the physical and social character of the area and would contribute to an imbalance in the make-up of the local community to the detriment of its well-being, exacerbating a situation which the Council already recognises as requiring careful management. As a result, the proposal would be contrary to Policy CS4 of the CS.

[4] Appeal Refs: APP/X2410/W/19/3232767; APP/X2410/W/17/3180376

Effect on neighbours' living conditions

15. The appellant argues that the change of use would not lead to the adverse impacts attributed to HMOs, and that it is unreasonable to assume that there would be any greater clash of lifestyles between occupants of a HMO and neighbouring occupants than may be the case with other types of residential use. I recognise that some groups of people might live together as a single household and the effect may be similar to a single dwellinghouse occupied by a family unit, and I have taken into account the appellant's willingness to take steps to address internal noise transfer.

16. However, the exact living arrangements of individuals cannot be guaranteed and HMOs, by their nature, allow for unrelated individuals to reside in the same property, which can result in more comings and goings at different hours of the day and the potential for more visitors to the property, which would increase the potential for noise and disturbance causing nuisance to neighbouring occupants compared to a dwelling occupied by a single family unit.

17. The SPD sets out that where there is a high proportion of HMOs it can often result in a higher incidence of ASB, particularly at unsociable hours and increases in crime and fear of crime. I acknowledge the appellant's point that reports of crime in the area have been low. However, the evidence indicates that there have been 39 reported incidents of ASB over the past year within Fearon Street and Ashby Road, and Storer ward recorded 8.5% of all ASB incidents between 2013 and 2018.

18. As the appeal site lies close to and between the town centre and the main university campus, students are likely to regularly pass through the area and visit existing student HMOs. I accept that not all students will engage in ASB, nor are students the only source of ASB. I also note the behaviour policies the University has in place, though the evidence suggests these have been introduced, at least in part, as a result of poor behaviour by some students. The Council also refers to a 2019 assessment of HMOs which establishes a strong correlation between the number of HMOs in a ward and the number of recorded ASB incidents. Whilst I accept a correlation is not definitive, it adds to my overall impression that residents have experienced unwelcome disturbance through these incidents, and an increase in in the concentration of HMOs would increase the potential for ASB and harm to the well-being of residents.

19. The appellant states that he will take measures to minimise potential for tenants to cause ASB through a property management plan secured by condition. However, I agree with the Inspector in a recent decision[5] that a management plan would be unlikely to be effective in influencing individual lifestyles of tenants and, as the permission would relate to the land and not the owner, effective management of the site could not be guaranteed into the future. Moreover, whilst the appellant refers to the Council's enforcement powers where a breach occurs, these are not immediate remedies and would not prevent noise or disturbance occurring in the first place, which is often late at night when a call to the Council is not an option. Accordingly, I am not persuaded that a management plan would adequately address the potential harm arising from the proposal from increased noise, disturbance and ASB.

[5] APP/X2410/W/19/3243278

20. The Council did not oppose the proposal in terms of parking. The site is close to the town centre and the university campus and both could be reached on foot. I also saw that Fearon Street is subject to permit parking and there was parking available on the street. My site visit was during the university holidays, but on the evidence before me, I find the proposal would not lead to demonstrable increases in parking demand or inconvenience to existing residents due to lack of places to park.

21. Taking all of the evidence before me, I find that an increase in the concentration of HMOs would add to the number of residents and visitors to the area and increase the potential for noise, disturbance and ASB which would harm the living conditions of neighbouring residents. Therefore, the proposal would not accord with Policy CS4 of the CS and the Housing SPD. There would also be conflict with the similar aims of the Framework to ensure developments provide a high standard of amenity for existing and future users.

22. The Council's decision notice also cites conflict with Policy CS2 of the CS and saved policy EV/1 of the Borough of Charnwood Local Plan (January 2004). Whilst both of these also refer to protecting the living conditions of adjoining occupants, this is with respect to the design of new development, which I do not regard as directly applicable to this main issue.

Other Matters

23. The appeal site lies within the Ashby Road Conservation Area; however, there would be no alterations to the external elevations of the dwelling. The Council determined the impact of the proposal to be neutral and raised no objections regarding the matter, and I have no reason to disagree with this assessment. Therefore, the significance of the conservation area would be preserved.

24. The appellant argues that rigorous application of the 20% threshold will push student housing to more outer parts of Loughborough which are less accessible by students and would not be a sustainable approach. However, the evidence suggests not all of the purpose built student accommodation in the town is fully occupied[6], which limits the weight I afford to the perceived need for accommodation capable of being occupied by students. In any case, sustainable development means meeting the needs of society as a whole, and on the evidence before me, the expansion of HMOs, whilst catering for the student population, would be to the significant detriment of existing residents and the balanced makeup of the community for the reasons set out. Accordingly, the proposal would not be a sustainable form of development.

Conclusion

25. For the reasons given above, the proposal would result in conflict with the development plan taken as a whole and there are no material considerations which indicate that permission should be forthcoming in spite of this conflict. Therefore, the appeal is dismissed.

K Savage

INSPECTOR

[6] HMO Study, Table 7