



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/20/3252569

59 Ashleigh Drive, Loughborough LE11 3HN

- 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 Messrs Raffaele Russo and France (Orange Est8) against the decision of Charnwood Borough Council.
 - The application Ref P/20/0200/2, dated 31 January 2020, was refused by notice dated 27 March 2020.
 - The development proposed is erection of extensions and the change of use of dwelling (Use Class C3) to a small house in multiple occupation (use Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note that planning permission was granted in May 2020 for the erection of two storey extensions to the side and the rear the property and its conversion into two flats¹. Indeed, at my site visit, construction of the extensions was underway. I have had regard to this decision as a material consideration, as I have to an appeal decision at the same site from October 2019² concerning a proposal for two storey extensions and alterations to dwelling and conversion into 5 studio flats (Class C3).

Main Issue

3. 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

4. The appeal relates to a detached, two storey dwelling at the end of Ashleigh Drive where it enters the Loughborough University campus through barrier gates restricting vehicular access. This physical barrier, together with dense tree cover along the shared boundary, serves to separate the residential character of Ashleigh Drive from that of the university campus.

¹ Council Ref: P/20/0295

² Appeal Ref: APP/X2410/W/19/3232987

5. Policy CS4 of the Charnwood Local Plan Core Strategy (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.
6. The supporting text of Policy CS4 sets out that student HMOs are concentrated in Loughborough given the presence of the University and College. The text acknowledges the significant economic, social and cultural contribution the student population brings to the town, 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.
7. 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.
8. The appellants describe the threshold as 'arbitrary'. However, I note from another appeal³ 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.⁴ I therefore attach considerable weight to the threshold.
9. In this case, the Council identifies 37 properties within a 100m radius of the appeal site, of which it states that 11 are known to be in HMO use, a concentration of some 29.7%, which would rise to 29.9% as a result of the proposal. The appellants do not appear to dispute the Council's figure, but argue that the proposal would only result in a 2.7% increase in the concentration of HMOs which would be '*de minimis*'. Interested parties put the HMO figure for Ashleigh Drive as a whole, some of which is beyond the 100m

³ Appeal Ref: APP/X2410/W/16/3157734

⁴ Appeal Refs: APP/X2410/W/17/3188165; APP/X2410/W/19/3234047; APP/X2410/W/19/3243278

radius, at 50% or more, which tallies with the findings of the Inspector in an appeal at 39 Ashleigh Drive in 2016⁵.

10. The appellants also refer to *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 3.4% of households in the Nanpantan ward, in which the site lies, are student occupied HMOs, and that the percentage of HMOs overall, both student and non-students, is 5.8%⁶. 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 within the 100m radius is already above the SPD threshold, and more so in Ashleigh Drive as a whole, suggesting student housing is becoming dominant in the immediate area and the character of Ashleigh Drive is already under threat.
11. Allowing one further HMO may appear insignificant in itself; however, it would add to the concentration of HMOs and student households in the area, which I am mindful is directly adjacent to the university campus. In this respect, I have had regard to the several representations made by residents of Ashleigh Drive, including that from the Nanpantan Ward Residents' Group, raising concerns relating to the number of HMOs in the area and their effects on the character of the area and residents' living conditions.
12. 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 appellants refer 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 transient occupants which would not help the cohesion of the neighbourhood or community spirit.
13. 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.
14. I saw several student letting signs in windows on Ashleigh Drive, 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. 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 established residential area of detached and semi-detached family-sized dwellings.

⁵ Appeal Ref: APP/X2410/W/15/3141562

⁶ Table 3

15. In reaching a view, I have also had regard to two allowed appeals⁷ referred to by the appellants, 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.
16. 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.

Effect on neighbours' living conditions

17. The appellants argue 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 appellants' willingness to take steps to address internal noise transfer.
18. 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, often on a short-term basis, which can result in more comings and goings at different hours of the day and 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, or indeed the two, two bedroom flats approved under the May 2020 permission, which would be more likely to be occupied on a longer term basis by occupants residing as single households.
19. 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. I note that no crimes have been recorded in the area between December 2018 and November 2019, but the Council indicates that there have been 16 reported incidents of ASB in the past year. I have also taken into account the report of a specific incident of ASB involving property damage from October 2019 and also the comments of the local Police Inspector expressing concern at the trend of anti-social behaviour in Ashleigh Drive and to a lack of assistance from landlords in addressing these matters, in contrast to the gratitude expressed to LU for their response.
20. Given the appeal site lies adjacent to 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. However, the evidence suggests the behaviour policies the University has in place have been introduced, at least in part, as a result of

⁷ Appeal Refs: APP/X2410/W/19/3232767; APP/X2410/W/17/3180376

poor behaviour by some students. The Council also refers to its 2019 assessment⁸ of HMOs which establishes a strong correlation between the number of HMOs in a ward and the number of recorded ASB incidents. I accept a correlation is not definitive, but it adds to my overall view that residents have experienced unacceptable disturbance through these incidents, and an increase in the concentration of HMOs would increase the potential for ASB and harm to the well-being of residents. I note the Inspector in the previous appeal at the site reached a similar view.⁹

21. The appellants state that they 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 decision¹⁰ 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 appellants refer 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.
22. Despite the concerns of interested parties, the Council did not oppose the proposal in terms of parking. The site benefits from a front driveway capable of accommodating several cars, and it is clearly within walking distance of the university which would reduce the likelihood of all occupants owning a car. I also saw that parking was available on street, and although my site visit was during the university holidays, the evidence in this case does not indicate that proposal would lead to demonstrable increases in parking demand or inconvenience to residents due to lack of places to park.
23. 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 anti-social behaviour 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.
24. 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

25. The appellants argue 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

⁸ Charnwood Borough Council Houses in Multiple Occupation Assessment Final Report July 2019

⁹ Appeal Ref: APP/X2410/W/19/3232987

¹⁰ Appeal Ref: APP/X2410/W/19/3243278

occupied¹¹, 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.

26. Having seen the site for myself, I have no reason to disagree with the Council's conclusions that the proposed extensions would be acceptable in planning terms. However, this would not overcome the harm identified from the proposed HMO use.

Conclusion

27. 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

¹¹ HMO Study, Table 7