



Appeal Decision

Site visit made on 24 August 2020 by Darren Ellis MPlan

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2020

Appeal Ref: APP/Q3060/W/20/3253650

86 St Stephens Road, Nottingham, NG2 4JS

- 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 Richard Whittley against the decision of Nottingham City Council.
 - The application Ref 19/02490/PFUL3, dated 7 November 2019, was refused by notice dated 24 March 2020.
 - The development is the change of use from a C3 dwellinghouse to a C4 HMO.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of a C3 dwellinghouse to a C4 house in multiple occupation at 86 St Stephens Road, Nottingham NG2 4JS in accordance with the terms of the application 19/02490/PFUL3, dated 7 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan titled 'H.M. Land Registry'; and the Floor Plan.

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.

Procedural Matters

3. On the planning application form, the proposed development is described as a 'Change of use to HMO'. For clarity, I have amended the description in the header above to include the current use of the appeal property as a C3 dwellinghouse and that to clarify that the proposed house in multiple occupation (HMO) is a C4 use and not a sui generis HMO.
4. The property is already in use as an HMO and is licensed for 5 occupants. I have dealt with the appeal on that basis.

Main Issues

5. The main issues relating to this appeal are the effect of the development on:
 - the availability of family accommodation;
 - the living conditions of the neighbouring properties; and
 - the character of the area.
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Reasons for the Recommendation

6. The appeal site is a detached two-storey dwelling located on St Stephens Road adjacent to the junction with St Stephens Avenue, and is situated within a residential area. The proposal is for a change of use of the property from a C3 dwellinghouse to a C4 HMO.
7. The change of use would grant permission for a small HMO for up to 6 residents. This type of change of use is normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 without the need for planning permission. However, the Council has introduced an Article 4 Direction to remove this permitted development right.

Family Accommodation

8. Policy H01 of the Land and Planning Policies Local Plan Part 2 (January 2020) (LAPP) states outside the city centre where sites are capable and suitable for accommodating family housing the City Council will encourage development for family housing. The supporting text for the Policy explains that Nottingham City Council has a proportion of homes suitable for families that is below the national average. It goes on to say that, in order to increase the stock of family housing, 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. This reflects Policy 8 of the Aligned Core Strategies Part 1 Local Plan (September 2014) (ACS).
9. Policy HO2 of the LAPP states that there will be a presumption against the loss of dwellinghouses (Use Class C3) for family occupation through the conversion to Use Class C4. The policy lists exceptions to this presumption, including where local evidence of housing need and demand indicates that an alternative mix of housing is appropriate or where an applicant can demonstrate that the property is no longer suitable for family occupation.
10. The appeal property has a small triangular-shaped rear yard area and no front garden space, and there is no off-street parking for any of the dwellings in the street, including the appeal property. Consequently, the property is not ideally suited to family housing, which would usually require off street parking and adequate garden space, and an HMO could be a more appropriate use of the property.
11. The appeal site is within walking distance of Nottingham city centre, and as such there may be demand for shared accommodation. Bus stops on Colwick Road and Dale Street are short walks from the appeal property, as is a parade of shops also on Colwick Road. The appeal site therefore has good public transport links which would support either family or shared accommodation.
12. I therefore conclude that the development would not result in the loss of a property that is suited to family accommodation. Consequently, the proposal would not have a harmful effect on the availability of family housing in the locality and would not conflict with and compromise the City Council's aspirations to build and maintain an appropriate mixed and balanced community. As such, the proposal accords with Policies HO1 and HO2 of the LAPP and Policy 8 of the ACS in this regard.

Living Conditions of Neighbouring Properties

13. I understand that the appeal property is currently in use as an HMO for five occupants. No evidence of any complaints from the environmental health department or from the neighbouring properties have been submitted, and as such it has not been demonstrated that the use of this property as an HMO has caused any problems in this regard. Furthermore, the use of the house by a single family could generate a similar amount of activity, noise and disturbance in and around it.
14. Student tenants are likely to move in and out of the property more frequently than other occupiers. However, any noise and disruption from the tenants moving in and out, and periods of vacant possession of the property, would be short-term and temporary. I also have no substantive evidence before me to suggest the occupation of the property by students would necessarily lead to a greater likelihood of antisocial behaviour.
15. During the time of my site visit, on a Monday morning, there were a significant number of cars parked on the street. Permit holders only are allowed to park in this part of the street during 0800 hours and 2000 hours, and it is very likely that the on-street parking would be fully used outside of these hours. Representations from neighbouring properties during the original application stated that parking in this part of the street during evenings and weekends is very difficult. However, the proximity to the city centre and the nearest bus stops may reduce the need for the use of cars. Moreover, it is unlikely that an HMO would result in a significantly greater car use than would be generated by a family house. Furthermore, I note that no objection has been raised by the highway authority.
16. I therefore conclude that a small HMO use would not cause harm to the living conditions of the neighbours, and consequently find that the proposal accords with Policy 10 of the ACS, which seeks, amongst other things, to protect the living conditions of nearby residents or occupiers. The proposal would also satisfy Policies DE1 and HO6 of the LAPP which require, amongst other things, for new development, including new HMOs, to provide a satisfactory level of amenity for the occupiers of neighbouring properties.
17. Policy HO2 is referred to in the Council's second reason for refusal. That reason for refusal relates to the effect of the proposal on the living conditions of neighbouring properties and on the character of the area. Policy HO2 sets out a presumption against the loss of Use Class C3 dwellinghouses, subject to a number of exemptions. However, neither the policy or the supporting text refers to a proposal's effect on the living conditions of the neighbours or on the character of the area, and as such I am not convinced that this policy is relevant to these issues in this case.

Character of the Area

18. Neighbours have raised concerns with regards to fly-tipping connected to HMOs in the street. However, during the time of my site visit the street was clean and tidy with no evidence of fly tipping. Moreover, no substantive evidence has been provided that links any fly-tipping to the occupants of HMOs.
19. Short term lets, periods when the property is vacant and the potential for a shared property to not be properly maintained can all lead to an area changing

its character over time, particularly if there is a concentration of such properties in an area. However, HMOs are not prevalent in the area surrounding the appeal site and there is no evidence of harm in this regard.

20. I therefore conclude that a C4 HMO use would not have a harmful effect on the character of the area, and consequently find that the proposal accords with Policy 10 of the ACS, which seeks, amongst other things, to protect the character of the area and ensure that proposals make a positive contribution to the sense of place. The proposal also satisfies Policies DE1 and HO6 of the LAPP which require, amongst other things, for developments including the creation of HMOs to respect the character of the area and the site.

Conditions

21. In the absence of any suggested conditions from the Council, the standard time limit on the commencement of the development is included together with a plans condition for certainty.

Conclusion

22. The proposal involves a property that is not well suited for family housing, and the proposal would not cause harm to the living conditions of the neighbours or to the character of the area. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and planning permission granted subject to the conditions above.

D Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed and planning permission is granted subject to the conditions above.

K Taylor

INSPECTOR