The Planning Inspectorate

Appeal Decision

Site visit made on 18 August 2020 by John Gunn DipTP Dip DBE MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/X2410/W/20/3254130
39 Granby Street, Loughborough, LE11 3DU

- 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 Rafaelle Roberto Russo, Orange Est8, against the decision of Charnwood Borough Council.
- The application Ref P/20/0024/2, dated 6 January 2020, was refused by notice dated 20 April 2020.
- The development proposed is the change of use of offices to a small House in Multiple Occupation (use Class C4).

Decision

1. The appeal is allowed and planning permission is granted for the change of use of offices to a small House in Multiple Occupation (use Class C4) at 39 Granby Street, Loughborough, LE11 3DU in accordance with the terms of the application ref P/20/0024/2 dated the 6 January 2020, subject to the following conditions:

   1) The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.

   2) The development hereby permitted shall be carried out in accordance with the following drawings:

   Block and location plan 1923-01

   Proposed floor plans 1923-03

   3) No use or occupation of the building shall begin until provision has been made within the application site for the parking of cycles, under cover and secure, in accordance with details which shall have first been submitted to and agreed in writing by the local planning authority. The provision for cycles shall thereafter not be used for any other purpose.

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 Matter

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

4. The main issue is whether or not the appeal site is suitable for a house in multiple occupation (HMO), including its effect on the balance of the local community, and the effect on the living conditions of nearby residents with particular regard to noise, disturbance and anti-social behaviour.

Reasons for the Recommendation

5. The application property is a two storey brick and slate semi-detached building. It is currently vacant; the last use being offices. It has provision for car parking to the rear with a gated access off Packe Street. The property is close to the town centre on a street characterised by buildings dating from the early 1900's, many of which are now in office use or in use for financial or professional services. The street also features a public car park, the town's library, Queens Park and the Charnwood Museum.

6. Policy CS 4 of the Charnwood Local Plan 2011-2028 Core Strategy (the Core Strategy) states that the Council will support the well-being, character and amenity of communities by managing the proportion of HMOs that either in themselves, or cumulatively with other HMOs damage the social and physical character and amenity of a street or area; or generate noise and disturbance which is detrimental to amenity; or generate a demand for on-street parking which would prejudice highway safety or amenity.

7. Further guidance in this regard is contained within the Council's Housing Supplementary Planning Document (HSPD), adopted in May 2017. This document indicates that the Council will adopt a threshold approach which assesses whether or not there is already a high concentration of HMO accommodation within an area. In this regard a 100 metre radius is measured from the centre of the HMO proposed. Where there are already 20% or more HMOs within this radius, HSPD 11 of the HSPD seeks to resist further HMOs.

8. There is no dispute between the parties that the proposal would result in the number of HMOs within 100 metres of the appeal site exceeding the thresholds set within the HSPD. However, the document sets out that the concentration of HMOs is not the only factor to be taken into consideration when assessing proposals of this nature. Matters including those set out in Core Strategy Policy CS 4 will also be taken into consideration, as set out in HSPD 12 of the HSPD.

9. In terms of the external appearance of the property, no changes are proposed. The Council are satisfied that there is adequate provision for the storage of refuse/recycling containers within the rear garden, or the enclosed bin store at

the side of the property. Bins would be brought out onto the street on the day of collection and returned to their allocated space thereafter. This would ensure that there would be no long term harm to the appearance of the area. A large car park is provided to the rear of the property, accessible from Packe Street. Both parties agree that this is adequate to meet the needs of the proposed development. The Council did not raise the effect of the proposal on the physical character of the area or highway safety issues as a concern and I have no reason to find differently in this regard.

10. The HSPD also refers to consideration of issues such as poor standards of repair, accumulation of waste and rubbish and crime. From my site visit, during which I visited neighbouring streets, I saw most properties were in a reasonable standard of repair and there was no evidence of accumulations of waste and/or rubbish, littering, or flyposting. There was only limited number of small letting signs being displayed. Consequently, there is insufficient evidence to demonstrate that student, or other HMO occupation upon the appeal site would have a detrimental effect on the locality.

11. In terms of the social character of the locality, I observed that Granby Street within the vicinity of the appeal site was largely commercial in character. From my site visit, which was carried out between university semesters, I noted a significant flow of pedestrians within Granby Street, involving the movement of people from neighbouring areas to the town centre, as well as by those using the local facilities and services. Whilst acknowledging that pedestrian movements are likely to fluctuate during the day, week and year, dependent on work and education patterns, it is likely that Granby Street would always be a vibrant area.

12. Moreover, local businesses and services appeared open. I have no substantive evidence before me to demonstrate that the businesses and services are only operational when the students are in town. Indeed, it appears that services such as the library, museum, the professional services nearby and the cafes and shops serve the non-student population as much as they serve students.

13. Given the character of the street, a HMO use as proposed would be unlikely to result in a sense of abandonment outside of term times as asserted by the Council. Moreover, given the limited number of residential properties currently within the street the proposal would be likely to provide additional surveillance, particularly in the evening when the offices and public buildings are closed. It would support the Framework's paragraph 85 which recognises the important role residential development often plays in ensuring the vitality of town centres. The introduction of an HMO in this location would be unlikely to have a discernible effect upon the social functioning of the area.

14. Whilst noting the number of incidents of anti-social behaviour near to the appeal site in Granby Street, Caldwell Street, Frederick Street, Heathcoat Street and Packe Street, there is nothing to confirm that such behaviour was carried out by persons occupant of HMOs. Even if a number of recorded incidents as suggested by the Council were carried out by those living in an HMO, overall, such incidences are low when measured over the year. They do not demonstrate that occupiers of an HMOs have a greater propensity to commit behaviour which is considered to be anti-social.

15. Granby Road is likely to be a busy thoroughfare into the evening, in terms of pedestrian movements and vehicles. Disturbance to nearby occupiers is therefore likely to result at certain times. The proposed HMO is unlikely either on its own or taken with other HMOs in nearby streets, to have a discernible effect upon such activity. In the absence of substantive evidence to demonstrate otherwise I find that this is not a determining factor in this case.

16. Although the HMO would be occupied throughout the night, which would unlikely be the case with the office use, I have no evidence to demonstrate that the comings and goings of the intended future occupiers of the proposed HMO would cause noise and disturbance to nearby occupiers to the degree that would be harmful to their living conditions.

17. Moreover, whilst the proposal shows bedrooms on each floor which would adjoin the living accommodation of the attached neighbouring property, it is likely that there would be a degree of insulation between the respective properties. No evidence has been provided to indicate that this is not the case. Furthermore, it is likely that the noise levels associated with the proposed HMO would be no greater than those of the permitted use as an office or a large family house. It is noteworthy that the Council consider that the requirement for a sound test would be 'unreasonable and unnecessary' and that sound proofing to conform with Building Regulations (document E), as set out in the HSDP 14, would also be unreasonable as 'such works would not be reasonably related in scale and kind to the development being applied for'.

18. I have been referred to a number of appeal decisions by the Council which relate to proposed HMOs in the locality. Whilst these decisions also dealt with the concentration of HMOs, I noted that the majority of the sites were located within well-defined residential areas, which is not comparable to the context of the appeal site. Moreover, they related to the conversion of C3 dwellings to HMO's which is not the case with the proposal before me. Consequently, I do not find those decisions to be directly comparable to the appeal proposal which has to be assessed on its own merits and the evidence before me.

19. In light of the foregoing I conclude that the location of the appeal site is suitable for an HMO, in accordance with Policy CS 4 of the Core Strategy which seeks to support the well-being, character and amenity of communities, Policy CS 2 of the Core Strategy which seeks high quality designs that responds positively to their context and Policy EV1 vii), of the Borough of Charnwood Local Plan 1991-2006 saved policies, which seeks to safeguard the amenities of adjoining properties. Whilst there would be conflict with the HSPD in respect of the proportion of HMO's within 100 metres of the appeal property, the porposal would not be contrary to its purpose which is to secure sustainable, inclusive and mixed communities.

Other Matters

20. The appeal site is within the Queens Park Conservation Area. However, as the appeal proposal is for a change of use with no external changes proposed, I agree with the parties that the proposal would have a neutral effect upon the character and appearance of the Conservation Area.

21. I acknowledge that the Council have produced a Draft Local Plan which sets out preferred options for draft policies for the period 2019-2036. These policies would, amongst other matters, seek to make provision for additional housing, require a high standard of design, manage the proportion of houses in multiple occupation by reducing existing thresholds and prevent a Class C3 dwelling from becoming sandwiched between proposed and existing HMO's. However, the Council acknowledge that these policies are yet to be tested through Examination in Public and consequently carry limited weight. I do not disagree with them on this matter and have assessed the proposal on the adopted planning policies for the area.

Conditions

22. The Council and appellant have suggested several conditions that could be imposed in the event that the appeal is allowed. I have considered these against the guidance set out in the Framework and the Planning Practice Guidance (PPG).

23. To ensure that the development is undertaken as approved a condition referring to the approved plans is necessary. A condition relating to cycle provision is necessary to encourage alternative means of transport to cars.

24. I acknowledge the appellant's offer to provide a 'property management plan' to control a wide range of activities arising from the property. However, whilst agreement to the content of such a document could provide a degree of certainty to the Council and local residents, it is likely that its content would prove difficult to enforce. Moreover, it could not control activity associated with the use that did not occur on the appeal site. I find therefore that such a condition would not comply with the tests for conditions set out in the Framework or PPG and will not impose it.

25. The Council has indicated that a condition in respect of additional noise insulation would be unnecessary and unreasonable. In the light of my findings, I have no reason to disagree with them.

Conclusion and Recommendation

26. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to the conditions set out above.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed with the recommended conditions.

R C Kirby

INSPECTOR