
Appeal Decision

Site visit made on 26 January 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3RD February 2021

Appeal Ref: APP/Q3060/W/20/3261369

165 Burford Road, Forest Fields, Nottingham NG7 6AY

- 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 Aruna Jayakody against the decision of City of Nottingham Council.
 - The application Ref: 20/00036/PFUL3, dated 7 January 2020, was refused by notice dated 22 April 2020.
 - The development proposed is a change of use. Converting C3 to C4 (HMO).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on (i) the provision of family accommodation as part of the housing mix; and (ii) the living conditions of the occupiers of adjoining residential properties and, more broadly, residents in the area, with regard to noise and disturbance, waste disposal, parking, property maintenance and occupancy matters.

Reasons

Family Accommodation

3. The appeal property is a prominent 3 storey house with an additional basement level. It also has a single storey element that adjoins an enclosed rear yard area. It lies on the corner of Burford Road with Beaconsfield Street, and forms an end of terrace property. The area in the vicinity of the site comprises a fairly dense arrangement of terraced properties that are mainly 2 storey in height, with occasional larger 3 storey properties located on some of the street corners.
4. Policy 8 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan (2014) (ACS) states that residential development should maintain, provide and contribute to a mix of housing tenure, types and sizes in order to create sustainable, inclusive and mixed communities. It puts a particular emphasis on providing family accommodation, including larger family homes. Policy 10 of the ACS also refers to mix.
5. Policies HO1 and HO2 of the Council's Local Plan Part 2 – Land and Planning Policies (2020) (LAPP) also place an importance on family housing, as part of

the housing mix. The supporting text to Policy HO1 also refers to the evidence that justifies such an approach, including for larger families. The use of family homes as Houses in Multiple Occupation (HMO) has said to have exacerbated the low provision. Policy HO2 sets out a presumption against the loss of dwellinghouses (Use Class C3) for family accommodation, including conversion to Use Class C4.

6. The size of the appeal property would not preclude its use by families, based on the submitted floor plans. That it is larger than most of the more modest sized residential properties in its vicinity points to that it would provide accommodation for larger families, which is supported by Policies 8 and HO1. Whilst the rear yard area is small, it provides some outside space and is on a level that is not dissimilar to its neighbours. The enclosed form of the yard, in particular to the road assists in its suitability for family use from safety and security perspectives.
7. Policy HO2 provides potential exceptions to the protection against the loss of a dwellinghouse that is suitable for family accommodation. There is not compelling evidence before me, though, which satisfactorily demonstrates that these exceptions apply, including those which involve regeneration and local evidence of need and demand for an alternative mix of housing. A proposal that would result in the loss of family accommodation is not in itself evidence of a need for alternative housing. The evidence contained in the Council's development plan over the shortage of family accommodation is more persuasive, not least as the policies seek to address this matter in part by limiting the loss of such accommodation.
8. With regard to how Policy HO2 deals with the consideration of the quality of accommodation and its suitability for a family home as a potential exception, the supporting text to the policy sets out the relevant factors that will be taken into account. As I have set out above, the proposal's size and layout would not inhibit family occupation. Accordingly, that it would result in the loss of family type accommodation weighs significantly against the proposal.
9. In relation to the application of Policy HO6 of the LAPP which concerns HMOs, this sets out clearly that a proposal will only be granted where it does not conflict with Policies HO1 and HO2. This is irrespective of the development's impacts which are dealt with under a separate section of the policy. Policy HO6 does not, in itself, satisfy the requirements of Policies HO1 and HO2 because this is dependent on the application of those policies. In this case, this does not favour the proposal. Matters in relation to HMO licensing do not fetter how a proposal is to be considered through the planning system.
10. I conclude that the proposal would have an unacceptable effect on the provision of family accommodation as part of the housing mix. As such, it would not comply with Policies 8 and 10 of the ACS and in this regard with Policies HO1 and HO2 of the LAPP where they are concerned with inclusive and mixed communities, the provision of family housing as part of the housing mix and protecting such houses that are suitable for family occupation.

Living Conditions

11. Due to the appeal property's location in an area with a high density of housing, it is located near to the closest residential properties. It is physically attached

- to its neighbour on Beaconsfield Street and is only separated from the side of the next property on Burford Road by a narrow alleyway access.
12. The intensification in the use of the appeal property as a HMO compared to a family dwelling would be reflected in an increase in the activities within the property. This would be apparent on the three floors of the accommodation, with the proposed internal layout. It would also result in a likely increase in the number of movements to and from the property because the nature of a HMO use is that it permits the rooms in the property to be occupied by unrelated adults.
 13. The increased movements and activities in the bedrooms and communal areas would be in close proximity to the neighbouring property on Beaconsfield Street, in particular. They would also be close to the neighbour on Burford Road, with the use of the rear yard. In respect of the impacts on the living conditions of the residents living in the broader area, the intensification of the use would also be apparent in relation to the movements to and from the property. As a consequence, the proposal has the potential to cause significant noise and disturbance. It would not be compatible with the use of the property.
 14. There is limited information on waste disposal, both in terms of what provision would be required for the proposal and how it would be provided. Whilst the appellant considers there would be adequate space for bin storage, this is not specified and the planning application form states that the plans do not incorporate areas to store and aid the collection of waste. In the absence of such information and with the confines of the site, it is not evident how adequate provision would be made that would have proper regard to the living conditions of the occupiers of the neighbouring properties, as well as potentially the future occupiers themselves.
 15. The property does not have off-street car parking and so occupiers with access to this mode of transport would rely on on-street parking. It was clear from my site visit that on-street parking in the area is at a premium. However, the property is located in close proximity to public transport and a range of local services. Hence, the effect on on-street parking is not decisive. Concerning the maintenance of the property and the nature of occupancy turnover, these seem largely related to the individuals concerned and so have a limited bearing on my decision. However, none of these matters would address my concerns over noise and disturbance, and waste disposal.
 16. I conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of adjoining residential properties and, more broadly, residents in the area, with regard to noise and disturbance, and waste disposal. Therefore, it would not comply with Policy 10 of the ACS and with Policies HO6 and DE1 of the LAPP where they are concerned with the impact on the amenity of nearby residents or occupiers, as well as the area, and whether a satisfactory level of amenity would be provided for the occupiers of neighbouring properties, including odour, noise and nuisance, amongst other considerations,.
 17. I do not find there would be a lack of compliance with Policy HO2 in this regard as this policy does not seem to concern itself with the living conditions of the occupiers of the adjoining residential properties. This does not, though,

overcome the conflict with the remainder of the development plan policies that I have identified by way of living conditions.

Conclusion

18. For the reasons set out above and having regard to all matters that have been raised, the appeal should be dismissed.

Darren Hendley

INSPECTOR