



Appeal Decision

Site visit made on 23 March 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st March 2021

Appeal Ref: APP/Q3060/W/20/3264015

4 Grove Road, Nottingham NG7 1HJ

- 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 M Johal against the decision of Nottingham City Council.
 - The application Ref 20/01947/PFUL3 (PP-09057434), dated 10 September 2020, was refused by notice dated 6 November 2020.
 - The development proposed is Change of use to two self-contained flats. Erection of rear single storey extension and rear dormer.
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Decision

1. The appeal is allowed, and planning permission is granted for a Change of use to two self-contained flats (Use Class C3), erection of rear single storey extension and rear dormer at 4 Grove Road, Nottingham NG7 1HJ in accordance with the terms of the application Ref 20/01947/PFUL3 (PP-09057434), dated 10 September 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plan/drawing Refs: H-01_00-01; H-01_00-02; H-01_00-03; H-01_00-04; H-01_00-05.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those set out on the approved plan/drawing H-01_00-05 and section 7 of the planning application form dated 10 September 2020.

Procedural Matters

2. There is no use class for the flats specified in the planning application form. However, the appellant has clarified that they would be a C3 use class. I have added this to the description in the decision paragraph above and considered the appeal on this basis.
3. At my visit a previous projection to the rear of the property had been demolished and a new blockwork wall and roof frame had been erected. I have had regard to this in considering this appeal.

Main Issues

4. The main issues are the effect of the proposed development upon:

- the availability of dwellings suitable for family occupation and the creation and maintenance of a sustainable and balanced community;
- the living conditions of the occupiers of neighbouring properties with particular reference to noise and disturbance; and,
- the character and appearance of the area.

Reasons

Family housing

5. Policy 8 of the Aligned Core Strategies Part 1 Local Plan (2014) (the ACS) seeks a mix of housing types and sizes in order to create sustainable, inclusive, and mixed communities, with an emphasis on providing family housing. Policy HO1 of the Land and Planning Policies Development Plan Document Local Plan Part 2 (2020) (the LPP2) explains the Council's approach to the mix of dwellings, with encouragement given to family housing where sites are capable of and suitable for accommodating it. It explains the Council area has a particularly low proportion of suitable family homes compared to the wider area and national average, resulting in less sustainable, balanced, and inclusive communities with consequential impacts upon a range of services and facilities.
6. The supporting text defines family housing as likely to be up to three storeys, with three or more bedrooms with two capable of double occupancy, and a private enclosed garden. Based upon the plans before me, the appeal site comprises two bedrooms only. The site is close to a large roundabout and the carriageway on Abbey Bridge/A6005, which is a busy arterial route through this part of the City. The yard area is a small 'L' shaped space, next to a disused public house and parking area. There are clear views into the appeal site yard and to the rear of the dwelling over the wall from the public footway on Abbey Bridge. Therefore, the appeal site does not meet the definition of family housing. Even if there were some significant alterations to the property it would not overcome the issue of the rear yard that does not have privacy.
7. For the reasons set out above the appeal site is not capable of and suitable to provide family housing, and so I do not find a conflict with criteria 1) of Policy HO1 of the LPP2. Part 2) of HO1 states that in assessing whether the development will be in character with the local area account will be taken of amongst other things, b) whether the development will fulfil other regeneration aspirations, and c) local evidence of housing need and demand.
8. There is an Article 4 Direction in existence withdrawing permitted development rights for a change of use to a C4 HMO, but two unrelated people could share each flat. The evidence suggests the percentage of student households and HMO accommodation is between 42 – 45.5% in the immediate area and 44.2% in the wider area. I am advised the appeal site is some 2 miles from the University of Nottingham, and there is a demand for professional and key worker accommodation in this area. Based upon the evidence before me, it is by no means certain that students would occupy the appeal site, or unrelated persons would share either flat. Therefore, the Council's concerns in respect of this matter only attract limited weight.
9. Even if the appeal site was occupied by students, the overall increase in the area would be small. Given the development does not result in the loss of a family dwelling, one additional two bedroom flat would not have a significant

effect upon the balance or sustainability of the community or on local services and facilities. The development would also have a beneficial effect of making more efficient use of the site, increasing the number of dwellings, and contributing to the dwelling mix in the plan area, and the additional dwelling would be likely to support services and facilities.

10. The Council has suggested that approving this development would make it difficult to resist similar developments which could result in the loss of family dwellings, an overconcentration of students and an unbalanced housing mix. Each proposal must be determined on its own merits. This proposal would not result in the loss of a dwelling suitable for family housing and it is by no means certain the additional flat would be inhabited by students. Therefore, I can see no reason why it would necessarily erode the prospects of creating a balanced or sustainable community or lead to harmful developments on other sites nearby.
11. Policy HO2 sets out a presumption against the loss of dwellings suitable for family occupation through subdivision, and criteria f) states that where it is demonstrated a property is no longer suitable for family occupation, the preferred approach is for a family dwellinghouse suitable for family occupation. There is no evidence this property has been occupied or would have been suitable as a family dwelling in the past, and based upon the evidence before me, it would not be suitable for family occupation. Therefore, the development does not conflict with Policy HO2 of the LPP2.
12. The Council has cited Policy HO6 in its reason for refusal. However, the development proposes two 2-bedroom flats in a C3 use and does not propose any of the developments listed in HO6 1) such as a House in Multiple Occupation (HMO). Therefore, the proposal does not fall to be considered under the criteria of Policy HO6.
13. For the reasons set out above the development would not result in the loss of a dwelling suitable for family occupation and would not have a harmful effect upon the creation and maintenance of a sustainable and balanced community. Therefore, the development does not conflict with Policy 8 of the ACS or Policies HO1, HO2 and HO6 of the LPP2. Amongst other things these policies seek to encourage the creation and retention of dwellings suitable for family occupation where sites are capable of and suitable for accommodating them, and the creation and maintenance of sustainable and balanced communities. As the development does not conflict with the aforementioned policies, there is no conflict with Policy A of the ACS in respect of this issue.

Living conditions

14. The appeal site is neighboured on one side by a car park and No 6 on the other side. The area had a significant level of background noise from the close proximity of the road and roundabout traffic, trainline and commercial and industrial premises. The development might result in an increase in the density of occupation of the appeal site although any increase would be small. Only the ground floor would have access to the rear yard, so its use would not be likely to lead to a greater level of noise and disturbance than would occur through the use as one dwelling.
15. The Council's particular concerns are in relation to the layout and use of the rooms in relation to the party wall of No 6. Each of the three floor layouts

show the majority of the party wall side would comprise the entrances, stairs, and hallways. These are only likely to be used for short durations for a limited number of times in a day. The lounge and kitchen area of the ground floor would adjoin the outrigger of No 6. It would not be uncommon for lounge or kitchen rooms to be located on the ground floor and based upon the likely use associated with a two bedroom dwelling it would not result in any discernible increase in noise and disturbance compared to the likely use of the existing dwelling.

16. On the first floor the lounge would adjoin the neighbouring outrigger, which I am informed is used as a bathroom. At my visit I saw nothing that would lead me to dispute this. A bathroom would be used for relatively short periods of time, and therefore the use of the first floor outrigger would not result in harmful effects to the living conditions of neighbouring occupiers. On the second floor a small part of the bedroom and bathroom would adjoin the loft space. Even if neighbouring loft space is used as a habitable room, the use of one en suite bedroom would not result in harmful living conditions. Noise and disturbance would not be likely to discernibly increase and would not result in harmful living conditions cumulatively with other development. I see no reason why overall noise would markedly increase if the house was occupied by short-term tenants.
17. For the reasons set out above the development would not result in harmful living conditions to neighbouring occupiers in respect of noise and disturbance. Therefore, it would not conflict with Policy 10 of the ACS and Policy DE1 of the LPP2. Amongst other things these policies seek to ensure development does not result in harmful living conditions to neighbouring occupiers.
18. The Council has referred to Policy IN2 of the LPP2. However, this primarily relates to contamination, instability and pollution associated with land. Therefore, it is of less relevance to this main issue than the policies I have already referred to above.

Character and appearance

19. The proposal includes the provision of an almost full width rear dormer a short distance below the ridge as part of the extensions and alterations. Being on an end of terrace property, this would be prominently visible from Abbey Bridge and a section of Grove Road. If it was viewed in isolation, the height, scale, design, flat roof form and the window sizes would not be in keeping with the appearance and configuration of the existing dwelling. The certificate of lawfulness of proposed development is for a markedly narrower development that has not been constructed after some 18 months and there is no expressed intention by the appellant to implement it if this appeal were to fail. Therefore, it attracts limited weight as a fall-back position.
20. However, the appeal site dwelling forms and is viewed as part of a wider terrace, particularly from Abbey Bridge. Several dwellings in the terrace have dormers similar to that proposed including Nos 8 – 12, 16, 24, 28 – 32 and 36, while maintaining the uniformity of the lower paired outriggers. The appeal site is viewed closely in the context of Nos 8 – 12 and 16. Given the number, positions and height, the dormers form a prominent feature of the terrace and an established part of the street scene from Abbey Bridge. Therefore, the dormer would not be strident or incongruent, and would be in keeping with and not be harmful to the character and appearance of the terrace and the area.

21. For the reasons set out above the development would be in keeping with the character and appearance of the terrace and the area. Therefore, it would not result in an overall conflict with Policy 10 of the ACS or Policy DE1 of the LPP2 as a whole. In combination and amongst other things, these expect development to have regard to local context and to be in keeping with, respect and not result in harm to the established character and appearance of the area.

Conditions

22. As well as the standard condition for the commencement of the development, for certainty a condition requiring the development to be carried out in accordance with the approved plans is necessary. To ensure a satisfactory visual appearance, a condition requiring the use of external materials to be those set out on the approved plan and application form is necessary.

Conclusion

23. The development is compliant with the development plan. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given above, the appeal is allowed.

Dan Szymanski

INSPECTOR