



Appeal Decision

Site Visit made on 13 April 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2021

Appeal Ref: APP/Q3060/W/20/3264644

30 Thurgarton Street, Nottingham NG2 4AG

- 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 J Daniel against the decision of Nottingham City Council.
 - The application Ref 20/02080/PFUL3, dated 30 September 2020, was refused by notice dated 26 November 2020.
 - The development proposed was originally described as 'Use as Either Class C3 Dwellinghouse or Class C4 House in Multiple Occupation (Reinstatement of Permitted Development Rights to Enable Change of Use Between Use Classes C3 and C4) For Up To Four People.'
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Decision

1. The appeal is allowed and planning permission is granted for use as either a Class C3 dwellinghouse, or a Class C4 house in multiple occupation for up to four people, at 30 Thurgarton Street, Nottingham NG2 4AG, in accordance with the terms of the application Ref 20/02080/PFUL3, dated 1 October 2020, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: PL01 (Existing and Proposed Ground, First and Second Floor Plans); PL02 (Site Location Plan).
 - 3) The use of the building as a house in multiple occupation (Class C4) hereby permitted shall be limited to a maximum of 4 residents.

Procedural Matter

2. Although the application is described as "Reinstatement of permitted development rights", this is not itself an act of development. The application, in effect, seeks a flexible use of the building, presently used as a dwellinghouse, as either a C3 dwellinghouse or a C4 house in multiple occupation (HMO)¹. I have assessed the proposal on that basis and I have omitted reference to permitted development rights from the description set out in the formal decision above.

Main Issue

3. The main issue is the effect of the loss of a family-sized dwellinghouse on the creation and maintenance of balanced communities.

¹ As defined under Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 (as amended)

Reasons

4. Policy 8 of the Aligned Core Strategies Part 1 Local Plan (September 2014) (the ACS) seeks a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities, with an emphasis on providing family housing, including larger family housing. The appropriate mix of housing will be informed by several indicators, including the need to redress the housing mix within areas of concentration of student households and HMOs.
5. Policy HO1 of the Local Plan Part 2 – Land and Planning Policies (January 2020) (the LAPP) indicates that the City Council will encourage development of suitable sites for family housing. Policy HO2 encourages the provision of sustainable, inclusive and mixed communities, with a presumption against the loss of dwellinghouses (Use Class C3) for family occupation, unless certain exceptions apply. These include where the proposal fulfils other regeneration aspirations of the Council; where local evidence of housing need and demand indicates that an alternative mix of housing is appropriate; or where alternative provision would meet other housing aspirations of the City Council, as set out in Quality Homes for All: Nottingham's Housing Strategy 2018-2021.
6. The Housing Strategy acknowledges the benefit of a good quality and well-managed private rented sector which provides younger professionals with flexibility and reduces the pressure on the social rented sector. The appellant also refers to the supporting text of the LAPP which recognises the contribution of HMOs to addressing wider housing needs, particularly for those on low incomes, younger people and those delayed from entering the housing market.
7. The proposal seeks to restore the flexibility normally engendered by permitted development rights to convert a dwellinghouse (Class C3) to a small HMO (Class C4), which have been removed by way of an Article IV Direction in March 2012. The supporting text of the LAPP indicates that the Article IV Direction allows the number and distribution of HMOs to be managed through the planning process to avoid the creation of or worsening of concentrations of such uses to the detriment of the establishment and maintenance of mixed and sustainable communities, and to protect the current stock of housing available for family occupation.
8. The Council's position is that the proposal would result in the loss of a dwelling suitable as a family home, within an area of other single dwellings, and that the appellant has not argued the property is no longer suitable for family occupation. Notably, however, the Council has not refused the application against Policy HO6, which relates to the provision of HMOs and sets a requirement that the proportion of HMOs in an area should not exceed 10%.
9. From my reading of the above policies and guidance, the conversion of a dwellinghouse to a small HMO can receive support in certain circumstances, and despite the preference within policy for larger family homes, these are not the only type of accommodation which could support sustainable, inclusive and mixed communities. In this case, the dwelling is located in an area of low HMO concentration at some 5.8% of the housing stock. The Council acknowledges this, indicating there to be only one HMO in Thurgarton Street. It is also not in an area of high student housing concentration, being located away from the main campuses of the city's two main universities.

10. Use as a small HMO in this case would provide further choice for those on lower incomes, those living by themselves, and younger people, within an area of mostly single family dwellings. I accept, as my colleague Inspector did in an appeal referred to me at 49 Colwick Road (Ref: APP/Q3060/W/20/3250938), that there is no guarantee that these particular categories of tenant would always occupy the property, but a HMO layout and living arrangement is more likely to appeal to such individuals, and I accord weight to this in favour of the proposal.
11. There would be the potential loss of a family-sized dwelling, but this would represent a very small change to the overall housing stock on Thurgarton Street and its immediate environs. Though large enough internally, the draw of the dwelling for families is likely to be reduced by the limited external space and lack of off-street parking. The harm from the loss of a family home in this instance would be modest and would be outweighed by the increased choice of accommodation a small HMO would provide, and there would still be potential for the building to return to a dwelling without further planning permission.
12. The Council also alleges that a small HMO use would fail to support local communities and local schools, but has not advanced evidence to support this position. On the other hand, the appellant supplies evidence that the nearest school, Windmill LEAD Academy, is heavily oversubscribed. The Council has not responded to this, but it is an indication that the viability of local schools is not under threat from a change to the makeup of the community in the immediate area. This aside, the use of the property as a HMO with up to four adults may conversely contribute to the community through increased spending in local shops and patronising other businesses.
13. In conclusion, therefore, I find that the loss of a family-sized dwelling in this instance would not harm the provision or maintenance of inclusive and mixed communities. Consequently, I find no conflict with the aforementioned aims of Policy 8 of the ACS, or Policy HO2 of the LAPP.

Other Matters

14. The Council did not oppose the proposal in terms of the standard of accommodation for prospective occupants, or the effect on neighbours' living conditions. Given its size, and that it would be limited to four occupants, I am satisfied that its use as a small HMO would not cause harm in these respects.

Conditions

15. The Council has not suggested any conditions in the event the appeal is allowed. A condition specifying the approved plans is necessary, to provide certainty. It is also necessary to restrict the number of occupants to the four sought, as six occupants as would normally be permitted under a Class C4 use would give rise to different impacts in terms of neighbours' living conditions and the standard of accommodation provided.

Conclusion

16. For the reasons set out, I conclude that the proposal accords with the development plan, taken as a whole, and the appeal should succeed.

K. Savage INSPECTOR