



Appeal Decision

Site Visit made on 24 May 2021

by Mark Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2021

Appeal Ref: APP/Q3060/W/21/3270127

81 Claude Street, Nottingham NG7 2LA

- 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 Sandeep Krishan, Flare Homes Ltd against the decision of Nottingham City Council.
- The application Ref 20/00946/PFUL3, dated 12 May 2020, was refused by notice dated 16 December 2020.
- The development proposed is a change of use from C4 6 bed HMO to sui generis 11 bed HMO and two storey side extension, single storey rear extension, roof dormer extension and internal alterations.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the development proposed would conflict with the aim of local planning policies to create or maintain balanced and mixed communities; and the effect of the proposal on the living conditions of neighbouring occupants, having particular regard to noise, disturbance, overshadowing and parking provision.

Reasons

Balanced and mixed communities

3. The appeal property is a six bedroom end terraced dwelling in use as a House in Multiple Occupation (HMO), which is situated on a corner plot at the junction of Claude Street and Dunkirk Road. The surrounding area is mainly residential in character comprising a mix of accommodation including dwellings and HMOs. A lawful development certificate¹ was issued by the Council in April 2015 confirming the use of the appeal property as a single dwellinghouse by not more than six residents within Use Class C4. The development proposed comprises a change of use and the addition of a two storey side extension and a single storey rear extension to create a large HMO² with 11 bedrooms.
4. Policy HO6 of the Nottingham City Land and Planning Policies Development Plan Document (Local Plan Part 2) (adopted in January 2020) (LAPP) requires that changes of use to create new HMOs or extension / alteration of existing HMOs, including development that facilitates an increase in the number of occupiers / bedspaces, should not undermine local objectives to create or maintain sustainable, inclusive and mixed communities. The assessment will have regard

¹ Council ref. 15/01308/PCLE

² The use of a dwelling by more than six residents as a House in Multiple Occupation (sui generis)

- to the existing proportion of HMOs and / or student households in the area and whether this proportion amounts to a 'significant concentration'³. The justification to the policy explains that a percentage of 10% or more will determine that the area concerned has a significant concentration.
5. I understand that the proposed accommodation is not exclusively aimed at students. However, the appellant has not confirmed that it would not be occupied by students. Given the location of the site, including its proximity to the University of Nottingham, and its current occupation by students, it is probable that the development would be attractive to student occupants.
 6. The Council have provided council tax and HMO data from November 2019 indicating that within the 'core output area', which includes the appeal site, approximately 42.2% of households are students. The average for surrounding output areas (which includes the core output area) is 44.7 %. Both figures significantly exceed the 10% threshold set out in the policy, indicating that there is a significant concentration of HMOs / student households in this area.
 7. The appellant disputes the Council's figure of 42.2% as well as some of the Council's methodology including matters relating to number of HMOs and student population. The Council's methodology to calculate the proportion of HMOs and student households has been found appropriate following public consultation and independent examination of the LAPP. Based on the evidence before me, I have no reason to find that the Council's figures are inaccurate. The appellant also questions the Council's application of policy HO6, arguing that the policy does not state that proposals will be refused if there is a greater percentage than 10%, but merely requires that regard be had to the existing proportion of HMOs and student households.
 8. Since the property is already in use as a smaller HMO, the development would not increase the number of HMOs in the area. However, with the addition of five bedrooms, there would be an intensification in the use of the property as an HMO in an area where there is already a significant concentration of HMOs and student households. That would undermine the aims of policy HO6 to create or maintain a balanced and mixed community.
 9. Whilst the proposal would not result in the loss of a Class C3 dwellinghouse, permitted development rights exist which would allow the existing building to revert back to use as a Class C3 dwelling without planning permission. The proposed change of use to a large HMO and extensions would create a property which, by virtue of its layout and substantial scale, would make it less likely to be converted back into a single dwelling in the future. The appellant states that the elevated railway, A52 and neighbouring industrial areas are closer than a family unit may desire. However, I have insufficient evidence to demonstrate that the appeal property would not be viable as a family home.
 10. To conclude on this issue, the proposed change of use and extension of the property to form a large HMO would fail to create or maintain a balanced and mixed community. It would therefore be contrary to the provisions of policy 8 of the Nottingham City Aligned Core Strategy Part 1 Local Plan (adopted in September 2014) (Core Strategy) and policy HO6 of the LAPP, which require, amongst other things, that development should maintain or create sustainable, inclusive and mixed communities.

³ Calculated using the methodology set out in Appendix 6 of the LAPP

Living conditions

11. The appeal property is the final house on the south side of Claude Street and adjoins No 79 to the west. The nearest neighbouring properties on the north side of the street are not directly opposite the site but are slightly offset. The eastern side of the property faces towards Dunkirk Road with the Beeston Canal and the A52 beyond. The Midland Railway Line is located to the south of the site.
12. With the addition of five bedrooms to the property, the development proposed would result in a more intensive use of the property. However, there is no detailed evidence to demonstrate that the existing HMO has caused any adverse effects with noise and consequent disturbance to neighbouring residents (for example, in the form of noise complaints) or that the development proposed would exacerbate any such issues.
13. I accept that there would be more comings and goings associated with the property. However, given the existing use of the property and its position at the end of the street, the addition of five bedrooms would be unlikely to result in any significant increase in noise and disturbance to an extent that would compromise living conditions of nearby residents. Furthermore, the additional bedrooms would be created in the extension to that side of the building furthest away from the adjoining property, No 79. I note that the Council's Environmental Health Officer did not raise any objections to the proposal on grounds of noise and disturbance.
14. The Council is also concerned that each occupant of the development could own a vehicle and create additional demand for on-street parking, which would lead to increased competition for limited parking spaces, to the detriment of the neighbours' amenities. I note that the site would retain off-road car parking provision for up to three vehicles, and secure cycle provision would be incorporated for up to eight bicycles, in the rear garden.
15. At the time of my visit at around midday on a Monday, there were a number of on-street parking spaces available on Claude Street. Notwithstanding the double yellow lines immediately adjacent to the site and the parking restrictions in force, it was possible to park close to the property without difficulty. There is no detailed evidence before me to indicate that there is a parking problem on the street. Indeed, the appellant's historic aerial images of Claude Street show low levels of on-street parking. Although only a snapshot in time, these images do nevertheless indicate that there has not been a significantly high demand for on-street parking here.
16. Furthermore, the site is within relative close proximity of a number of bus routes, tram stops and a railway station. Given these alternative transport options, the occupiers of the proposed accommodation would not necessarily be dependent on private cars to meet their transport needs. Taking these factors into account, the proposal would not be likely to result in any significant increase in competition for parking spaces.
17. The proposed single storey rear extension would extend up to the boundary with No 79 and have a depth of 6m and a height of 3m. I note that the Council have confirmed that prior approval was not required for a 6m long single storey

rear extension to the appeal property in April 2020⁴, albeit there would be some differences between the prior notification extension and the appeal proposal. However, in terms of its relationship to the adjoining property, that extension, if constructed, would have a similar effect on the adjoining neighbour, in terms of light and overshadowing, as the rear extension included within the appeal. Given the flat roof design and modest height of the proposed rear extension, it would be unlikely to result in significant loss of light to the adjoining property or be overbearing.

18. I conclude that the proposal would not be harmful to the living conditions of the neighbouring occupants. In this respect, there would be no conflict with policy 10 of the Core Strategy or policies DE1, HO6 and IN2 of the LAPP, where they seek to protect the amenities of nearby residents. The proposal would also not conflict with policy TR1 of the LAPP, which, amongst other things, seeks to ensure appropriate levels of parking provision.

Other matters

19. I have had regard to the appellant's statement of case and benefits of the scheme including the provision of homes and affordable accommodation for different groups of people, enhanced living conditions for future occupants of the development, appeal site's accessible location close to facilities, services and employment opportunities and promoting effective use of previously developed land. These benefits, given the scale of the development, would only amount to minimal weight.
20. It is indicated Flare Homes provides premium specification and excellent customer service and that the proposal would not have an adverse effect on the character and appearance of the area. I also note that the appellant considers the previous appeal decisions noted by the Council are not comparable to the appeal scheme. These matters however do not alter my findings on the main issues.

Conclusion

21. I find that the proposal would not be harmful to the living conditions of neighbouring occupants. However, having had regard to the aims of local planning policy, I consider that the proposal would not create or maintain balanced and mixed communities. I have considered the benefits of the proposal, however, these matters do not individually or cumulatively outweigh the harm I have identified.
22. For the above reasons, having considered the development plan as a whole, the approach in the National Planning Policy Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Mark Ollerenshaw

INSPECTOR

⁴ Council ref. 20/00509/PAHPD