



Appeal Decision

Site visit made on 10 May 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2022

Appeal Ref: APP/Q3060/W/22/3291263

223 Trowell Road, Nottingham NG8 2EP

- 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 Property Investment Portfolio (Mr A Soar) against the decision of City of Nottingham Council.
 - The application Ref 21/02058/PFUL3, dated 13 September 2021, was refused by notice dated 23 December 2021.
 - The development proposed is demolition of existing garages and brick boundary wall fronting highway to be replaced with a new build block of 6 flats with associated landscaping works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:-
 - The effect of the development on the character and appearance of the area.
 - The effect of the development on the living conditions of neighbouring residents, by means of overlooking and overshadowing, noise and disturbance.
 - The effect of the development on the living conditions of prospective residents, by means of outlook and access to natural light.
 - The need for the housing type proposed.
 - The effect of the development on flood risk.

Reasons

Character and appearance

3. The appeal site is located to the rear of 223 Trowell Road. I understand from the evidence provided that No 223 has a commercial unit at ground floor level and residential accommodation at first floor level. At present there are a number of small outbuildings on the appeal site, which shares a boundary with 2 Park Crescent and 225 Trowell Road. The locality is residential in nature, predominately two storey dwellings.
4. The appeal proposal would see the erection of a building that would house six flats. It would be brick built with a hipped roof, with a gable to the front elevation. An undercroft would allow parking for three cars. The building

would have a maximum height of approximately 8.2m and be located close to the boundary with the adjacent properties mentioned above.

5. The layout is shown to have 5 x 1 Bedroom units, two of which are at ground floor and three at first floor. A larger unit shown as three bedroomed is located in the roof area.
6. The proposed building would not follow the traditional pattern of development and would be noticeably larger than other dwellings in width, depth and height. It would be of considerable size and would be at odds with the scale, height and traditional form of other dwellings. The more contemporary nature of the development would sit ill at ease with the surrounding properties. The removal of the existing boundary and additional construction on the appeal site would significantly harden the appearance of the site and dominate the frontage on Park Crescent.
7. As such, I find that the presence of the building, by means of its scale, massing and the nature of its design would conflict with policy 10 of the Aligned Core Strategy (2014) (the ACS) and policies DE1 and DE2 of the Nottingham City Land and Planning Policies : Local Plan Part 2 (2020) (the LAPP) which collectively, amongst other matters, expect development to make a positive contribution to sense of place, effectively address matters of massing, scale, proportion and architectural style and should enhance the streetscape and respect local context.

Living conditions of neighbouring residents

8. As stated previously, I find the scale and massing of the proposed building would be incongruous within the locality. The siting of the building would be close to the boundary with 225 Trowell Road and 2 Park Crescent. With regard to 225 Trowell Road, I find the proximity of the dwelling given the relative positions (east-west) would lead to a loss of sunlight to the private garden area of that property for the majority of the morning.
9. This effect would be compounded by the provision of windows in that rear elevation looking toward 225 Trowell Road as well as the doors onto the private amenity space to the flats. The use of this space would be injurious to the living conditions of 225 Trowell Road due to the proximity with the boundary.
10. With regard to 2 Park Crescent, I find the proximity of the proposal would be overbearing to the living conditions of that property. An entrance door to 2 Park Crescent is located on the side elevation directly facing the proposal and the relationship would feel overbearing and overpowering when seen in the context of the two buildings. To a lesser extent, given the distance between the existing and proposed building, the living conditions of the residential element of 223 Trowell Road would be affected by the overbearing impact of the proposal, given the proximity of the new building to the rear of that property and the north – south juxtaposition.
11. I do not find that the levels of on-street parking would be significant enough to warrant harm to living conditions and amenities. There would be some off-street parking provided with the development, and I find that additional parking requirements could be accommodated in the near vicinity.

12. Nonetheless, I find that there would be harm to the living conditions of adjacent residents by the overbearing and overshadowing nature of the proposal as well as the loss of privacy to 225 Trowell Road by the window positions and the location of the amenity space to the flats at the rear. As a result, I find the proposals contrary to policy 10 of the ACS and policies DE1, DE2 and TR1 of the LAPP, which amongst other matters, expect development to be designed to address the impact on the amenities of nearby residents and occupiers.

Living conditions of prospective residents

13. Much as the private amenity areas of neighbouring residents would be affected as discussed above, I find that the private amenity space for the prospective residents would also be compromised by the proximity to 225 Trowell Road, as well as compounded by the distance to the boundary fence affecting the outlook given the respective site levels indicated by the plans, although this site level issue could be amended relatively easily. However, this would not overcome the proximity issue and the loss of privacy.
14. I also find that the lack of windows to the second floor flat would be harmful to the living conditions of those residents. There is an expectation that a three bedroomed unit would attract a family, and an internal layout served by only rooflights, and no windows, would be harmful to the living conditions of those residents, by utilising rooflights where better levels of natural light would be expected given the size of the unit.
15. As such, I consider that there is harm to the living conditions of prospective residents, and I find there is conflict with policy 10 of the ACS and policy DE1 of the LAPP, which amongst other matters, expect development to create an attractive, safe, inclusive and healthy environment and provide satisfactory levels of amenity.

Need for housing type

16. Policy 8 of the ACS outlines the general approach to housing development in the city. It states that there should be an emphasis on providing family housing and that an appropriate mix of housing will be informed by a range of factors. This includes, amongst other considerations, local demographics, the Council's strategies in relation to housing and sustainable communities and the need to redress the housing mix in areas with a high concentration of Houses in Multiple Occupation (HMOs) and students. The justified reasoning to the policy explains that the increase in family housing is sought because Nottingham has a lower percentage of such housing when compared to neighbouring local authorities and wider nationally, and that this has contributed to a loss of families from the city and an imbalance in communities.
17. Since the ACS was adopted, the LAPP has also been adopted. It provides more detail as to how the strategic policies of the ACS are to be implemented and includes a definition of family housing. Policy HO1 of the LAPP relates to housing mix. The most recent figures cited in the LAPP show that the number of completed family homes is below the target the Council set for itself.

18. The justified reasoning for policy HO1 defines family housing as having private enclosed gardens and three or more bedrooms. However, as four apartments in the appeal scheme are one-bedroomed, and the other unit is three bedroomed but has no amenity space, these do not constitute family housing.
19. No substantive evidence has been provided in relation to the site which demonstrates that those criteria of policy HO1.2 which support alternatives to family housing have been met. As such the appeal proposal would be contrary to policy HO1 of the LAPP.
20. Taking all these matters into account, the proposal would therefore fail to contribute towards creating a sustainable, inclusive and mixed community and would be contrary to policy 8 of the ACS, policy HO1 of the LAPP and the development plan considered as a whole.

Flood Risk

21. At the time of the application, it would appear from the evidence provided that the data supplied from the consultee demonstrated that the site was in Zone 1 and no assessment was required for submission with the application.
22. It appears to have subsequently come to light that the Lead Local Flood Authority have been re-surveying the area based on flooding events in the recent past, and an assessment would have been required, but this information does not appear to have been passed on to the appellant.
23. In this instance I find the issue could have been avoided by negotiation between the parties in order to address the situation, and an appropriate Flood Risk Assessment be carried out.
24. If there were no other issues regarding this appeal, then I consider that a condition could have been added to an approval in order to regulate the issue. As such I find that the proposals would not be in conflict with policy CC3 of the LAPP, which expects development to meet a number of criteria in order to not have a negative impact on water quality.
25. Nonetheless, given the harms that I have identified for other issues, any positive outcome in relation to flooding would be far outweighed by other matters, and does not change my determination of the appeal.

Other Matters

26. The appellant has expressed dissatisfaction with the service provided by the Council. However, this is a matter to be pursued with the Council, and my consideration of the appeal development relates to its planning merits only.
27. I have also noted the comments of local residents with regard to the appeal and have taken their comments into consideration where appropriate. Many of those comments mirror the concerns of the Council or have been dealt with appropriately in the Council report.

Conclusion

28. Overall, for the reasons given above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.

Paul Cooper

INSPECTOR