



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/22/3291900

13 Colville Street, Nottingham NG1 4HQ

- 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 Gurdev Shoker against the decision of City of Nottingham Council.
 - The application Ref 21/01679/PFUL3, dated 26 July 2021, was refused by notice dated 28 October 2021.
 - The development proposed is planning application for the conversion of the property from a dwelling house (C3) to a sui generis use for house in multiple occupation for up to eight people
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is retrospective, but I have deleted reference to that in the header above, as it does not form an act of development. I am satisfied that neither party is prejudiced by this course of action.

Main Issues

3. The main issues in this appeal are:-
 - The suitability of the use of the property as a House in Multiple Occupation (HMO) with regard to the Development Plan.
 - The effect of the development on the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

Suitability

4. The appeal property is two storeys, set in a considerable size plot. It is located within a predominately residential area and is located within the Arboretum Conservation Area.
5. The appeal seeks retrospective consent for use of the property as an HMO. Plans supplied with the appeal show four bedrooms and a kitchen at ground floor and four bedrooms at first floor.
6. Policy 8 of the Aligned Core Strategies Part 1 Local Plan (2014) (the ACS) places an emphasis on providing family housing. The approach to protecting dwellings suitable for family occupation is set out in Policies HO1 and HO2 of

the Land and Planning Policies Development Plan Document Local Plan Part 2 (2020) (the LAPP). Policy HO1 encourages family housing where sites are capable of and suitable for accommodating it. The supporting text explains there is a particularly low proportion of suitable family homes compared to the wider area and national average, exacerbated by HMOs, resulting in less sustainable and balanced communities with consequential impacts upon a range of services and facilities.

7. There is evidence to demonstrate that the percentage level of HMO property (32%) in the locality is significantly above the threshold set out in an attempt to establish balanced communities set out in policy H06 (10%). This is not disputed by the appellant, who states that the building is not suitable for family housing, given the on-site constraints.
8. The accompanying text to the policy states that the Council is seeking to secure more family housing, particularly larger family homes. It defines these as being likely to be up to three storeys, with three or more bedrooms (four for larger homes) with two capable of double occupancy, and a private enclosed garden. Based on the size of the dwelling, this could easily be achieved, and there is private amenity space that could be easily adapted. Therefore, the appeal property has a good level of accommodation suitable for providing family housing. Therefore, this development conflicts with Policy HO1 of the LAPP.
9. Policy HO2 sets out a presumption against the loss of dwellings suitable for family occupation. Exceptions to this include where evidence indicates an alternative mix of housing is appropriate. According to evidence, the area has a large amount of HMO premises in the area. The evidence demonstrates there is not a significant need for another HMO, or that alternative mixes of housing are appropriate. Therefore, it does not merit a departure from the presumption against the loss of family housing. Therefore, the development also conflicts with Policy HO2 of the LAPP.
10. For the reasons set out above the development results in a harmful effect upon the availability of family housing, prejudicing the creation and maintenance of a balanced and sustainable community. Therefore, it conflicts with Policies HO1, HO2 and H06 of the LAPP, and the intentions of Policy 8 of the ACS. In combination and amongst other things these policies seek to provide and retain family sized dwellings and to create and maintain a sustainable and balanced community.

Living conditions of neighbouring residents

11. In terms of the effect on the living conditions of nearby residents, the character of single-family dwellings can be significantly different from those of an HMO. An HMO can increase the density of occupation which can, in turn, have an effect on the activity generated by both people and vehicles. The occupants of an HMO may have a different lifestyle, resulting in people movement, noise and disturbance at different times of the day and night in comparison with a single-family dwelling. It follows that the presence of an HMO, whilst not necessarily changing the appearance of the area, can be detrimental to its living conditions of neighbouring residents.

12. The occupiers of all types of dwelling have the potential to cause nuisance, but there is an acknowledgement that higher proportions of HMOs can result in higher incidences of anti-social behaviour, together with the perception of increased crime levels, and the fear that comes with it. This can adversely affect the living conditions of neighbours.
13. Where a sizeable percentage of HMOs are occupied by students, there can be a considerable difference in social interaction and use of services and facilities between busy term times, and holiday periods. This can have a negative effect on the character of the area, and the threshold approach does allow for consistency in the approach to planning applications for such types of occupation and allows the Council to control the levels and concentrations in particular areas. Whilst one additional HMO may appear to be a minor increase in the overall proportion, when taken together with the existing proportion of HMOs in the locality, I find that the use, when taken cumulatively with the existing level of HMOs, would be harmful to the living conditions of neighbouring residents.
14. I find that it would conflict with Policy 10 of the ACS and policies DE1 and HO6 of the LAPP which, respectively, seek to ensure that development protects the living conditions of neighbouring occupants.

Other Matters

15. Conservation Areas are designated heritage assets as defined by the National Planning Policy Framework (the Framework) and great weight is to be given to their preservation and conservation. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires that special attention be given to the desirability of preserving or enhancing the character or appearance of a conservation area.
16. The appeal site lies within the Arboretum Conservation Area but includes no alterations to the external elevations of the dwelling. Apart from the conflict with policy, I consider the external impact of the proposal as neutral in terms of its impact of the Conservation Area. As such, I find that the significance of the Conservation Area would be unharmed.
17. I have noted the statement of the appellant with regards to the nature and expectations of the occupants, and that the appellant considers themselves a responsible owner of the property. However, it cannot be conditioned to restrict the type of occupant, and planning permission relates to the land, and not to the owner. A management plan would also be unenforceable.
18. I have also noted the comments of the appellant in respect of the future use of the property if the appeal were to be dismissed. The Council would determine any subsequent applications accordingly, if planning permission were to be required for any works.

Conclusion

19. 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