



Appeal Decision

Site visit made on 24 May 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 July 2022

Appeal Ref: APP/W3005/W/22/3292280

2 Albert Street, Hucknall, NG15 7BE

- 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 Adrian Craciun, Castle Rock Projects Ltd, against the decision of Ashfield District Council.
 - The application Ref V/2021/0639, dated 17 August 2021, was refused by notice dated 18 January 2022.
 - The development proposed is the change of use from 2 x C3 dwellings into 1 x sui-generis 10 bedroom HMO including erection of single storey extension to rear.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from 2 x C3 dwellings into 1 x sui-generis 10 bedroom HMO including the erection of a single storey extension to rear at 2 Albert Street, Hucknall NG15 7BE, in accordance with the terms of the application, Ref. V/2021/0639, dated 17 August 2021, subject to the conditions set out in the attached Schedule.

Applications for costs

2. An application for costs was made by Mr Adrian Cracu, Castle Rock Projects Ltd against Ashfield District Council. This is the subject of a separate Decision.

Procedural Matters and Background

3. The description of development given on the application form was 'change of use from 2 x C3 dwellings to 1 x sui-generis 12 bedroom HMO including erection of 6m single storey extension to rear and full dormer to rear elevation'. The revised description was agreed by the Council and the appellant, and the application was determined on that basis.
4. Both parties have drawn my attention to a 2021 appeal decision at Titchfield Street (Ref APP/W3005/W/21/3267408), a property located on a street immediately parallel to Albert Street. This proposal sought to convert one dwelling into an 8 person House in Multiple Occupation (HMO) and was allowed at appeal. Whilst I am aware that each appeal must be dealt with on its own merits, I consider that there are significant similarities with this appeal in respect of the main issues, the building type and the environment in which the buildings are situated. I have therefore had regard to this decision in determining this appeal.

Main Issues

5. The main issues are:

- Whether the proposal would conflict with the aims of national policy to create balanced communities, having regard to the level of housing in multiple occupation in the vicinity of the site, and its effect on residential character;
- the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook, privacy, noise and other disturbance; and
- whether the proposal would result in increased demand for parking on the surrounding streets, and if so whether it would be harmful to highway safety.

Reasons

Effect on the character of the area

6. The appeal site is in a predominantly residential area and comprises two dwellings at the end of a row of terraced houses. In the immediate area properties are mostly terraced and semi-detached houses which typically front the highway with rear gardens facing each other.
7. The appeal site comprises two adjoining dwellings. The front elevations face properties on the opposite side of Albert Street and to the rear, the garden adjoins surrounding rear gardens on all sides. Both properties are in a significant state of disrepair.
8. In its reasons for refusal, the Council cited the loss of two family homes in a primary residential area. Whilst its appeal statement failed to address this matter, the planning officer's committee report concluded that there would not be an over-concentration of HMOs in the locality and that the change of use would not significantly be at odds with the established residential character. The planning officer also raised the fallback-position and I share the view that there is a very real prospect that, given the size of the dwellings and potential to extend into the roofspaces, each residential unit could be converted into an individual HMO without the need to obtain planning permission. Whilst it is unlikely that the appellant would be able to accommodate the maximum of 6 people in each of the two premises as they stand, they could have a similar level of occupancy to that currently proposed. It should be noted that if the fall-back position was implemented then the Council would not be able to attach conditions to protect the living conditions of neighbours or to manage parking.
9. Therefore, in the absence of any evidence to the contrary, I find that the proposal would not conflict with the aims of national policy to create balanced communities, having regard to the level of housing in multiple occupation in the vicinity of the site, and its effect on residential character. The proposal would accord with Policies ST1 and HG8 of the 2002 Ashfield Local Plan Review (ALPR) which seek to ensure that an adverse change in character will not arise and to protect the amenity of neighbouring properties. It would also accord with the social objectives of the 2021 National Planning Policy Framework (the Framework).

Living conditions

10. Whilst the level of mutual overlooking would predominantly remain the same, the proposed rooflights would introduce some potential for additional overlooking. However, this would be unlikely to be a common occurrence because of their position in the roof and aspect.
11. I am satisfied that whilst separation distances on the ground floor might not quite achieve the distances quoted in the Council's Residential Design Guide SPD (2014), suitably designed boundary treatments could be secured via an appropriately worded condition to eliminate any possible overlooking from the building, as well as from the private outdoor amenity space and parking area.
12. In its appeal statement, the Council is concerned about the separation distance between the opposing main aspect windows on Albert Street, considering that this would fall below the minimum distance specified in the SPD. However, the appeal premises already exist, no changes are proposed to this elevation, and any mutual overlooking between premises would remain the same.
13. I have considered the suggestion that overlooking, noise and disturbance would be greater or more harmful because this would be from a group of individual tenants rather than from single family households. However, this was addressed in the Titchfield Street appeal and the Inspector concluded that the differences need not be any greater than the existing situation. He found no evidence that persons living in a multiple occupancy household would be more likely to spend longer periods of time in their bedrooms, and consequently looking out of upper floor windows, than members of a typical household and considered that it was not reasonable to assume that future HMO residents would cause more noise and disturbance. Furthermore, the Inspector noted that acoustic insulation could be secured by a planning condition to minimise noise transmission through party walls.
14. Having considered the relevant comments in the Titchfield appeal and the specific circumstances of the appeal scheme before me, I have seen no evidence that the development proposed would necessarily result in an unacceptable rise in overlooking, noise or disturbance. I recognise that the introduction of parking in the rear garden will introduce some noise disturbance that doesn't currently exist, but the dropped kerb is already in place and the existing occupier could create a similar parking area. Nor do I consider that the number of individuals residing at the premises would be uncharacteristically high as each existing dwelling could already accommodate a household of five individuals. Whilst the behaviour of members of one family might be different to individuals residing in an HMO there is no evidence that one is necessarily more disruptive to the residents nearby. Conditions to secure appropriate boundary treatment and acoustic insulation would ensure that adequate mitigation can be put in place and the appellant has agreed to these.
15. I therefore conclude that there would be no harmful effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook, privacy, noise and other disturbance. It would accord with Policies ST1, HG8 and the SDP of the ALPR and the relevant provisions of the Framework.

Parking and highway safety

16. The appeal site would provide four parking spaces to the rear of the premises. There is also on-street parking which in the immediate area is restricted to residents parking between 8am and 6pm. Due to the proximity to the town centre and the general lack of off-street parking in the area there is a high demand for on-street parking. Parking is clearly a concern for many residents, and I recognise that the proposed development may give rise to some additional demand.
17. In the Titchfield appeal no off-site parking provision was to be made. In this case the Inspector considered that an increase in the number of residents would not necessarily give rise to a significantly higher demand for parking. Account was taken of the proximity to the town centre with its amenities and services, and transport links were considered to be significant.
18. Again, I have seen no evidence to reach a different conclusion on this matter. I have also seen no evidence of an increased likelihood of sporadic and opportunistic parking in the vicinity of the site including parking on solid white or double yellow lines affecting highway safety. The Highway Authority has raised no objection to the proposed parking provision, and it is reasonable to assume that not all residents of the proposed HMO will have a vehicle, especially given the shortage of parking in the immediate area. Both of the current appeal premises do not benefit from any off-site parking provision so the proposed provision of four spaces in the rear garden would be likely to help relieve any additional parking demand arising from the development.
19. The Council mentions that the provision fails to comply with the parking provision requirements for an HMO in the Nottinghamshire Highways Design Guide 2021, which requires one space per dwelling. However, I have not been forwarded a copy of this guidance, no other party has commented on it, and I can therefore give little weight to this statement.
20. I therefore conclude that the proposal would not significantly increase the demand for parking on the surrounding streets, and it would therefore not be harmful to highway safety. This would accord with Policies ST1 and HG8 of the ALPR which seek to ensure that development will not adversely affect highway safety and section 12 of the Framework which seeks to achieve well designed places.

Conditions

21. I have made some changes to the suggested conditions in the interests of clarity and consistency, and to ensure compliance with the Framework and Planning Practice Guidance.
22. A condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty.
23. Conditions regarding noise attenuation within the property, a management plan relating to the occupants, restrictions on use of the outbuilding and boundary treatments are necessary in the interests of protecting the living conditions of neighbouring occupiers.
24. A condition is also required to restrict the numbers occupying the HMO in order to protect living conditions and limit demand for parking.

Conclusion

25. The letters of representation demonstrate a considerable strength of feeling regarding this development in the local area. Other matters raised include security, overshadowing, effect on house values, waste management and the wish to retain family housing. I have taken these and other valid comments fully into account, but none is sufficient to alter the conclusions I have reached on the main issues above.
26. For the reasons given above, having considered the development plan as a whole and the Framework, and taking into account all other matters raised, I conclude that the appeal should be allowed.

G Bayliss

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begin not later than 3 years from the date of this decision.
- 2) This permission hereby permitted shall be carried out in accordance with the following approved plans: Proposed Block Plan, Drawing No. A002 Rev A; Proposed Ground Floor Plans, Drawing No. A006 Rev A; Proposed First Floor Plans, Drawing No. A007 Rev A; Proposed Second Floor Plans, Drawing No. A008 Rev A; Proposed Elevations, Drawing No. A010 Rev A; Proposed Cycle Store Floor Plans and Elevations, Drawing No. A013 Rev A.
- 3) Prior to the occupation of the hereby permitted use, a sound test and details of any necessary insulation against the transmission of noise associated with the hereby approved use to the neighbouring properties shall be submitted and approved in writing by the Local Planning Authority. This test shall be carried out in accordance with Part E of Building Regulations.
- 4) Prior to the occupation of the hereby permitted use, a HMO Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan, shall as a minimum, include the following details:
 - Agent for day-to-day site and accommodation management (including contact details)
 - Management of noise and nuisance
 - Moving in and out procedure
 - Maintenance procedure
 - Cleaning arrangements
 - Safety and security arrangements
 - Waste management
 - Management of car and cycle parking
 - Tennant requirements
- 5) Prior to the occupation of the hereby permitted development the following matters shall be submitted to and agreed in writing by the Local Planning Authority:
 - Full details of the proposed treatment of the site boundaries.
 - A phasing scheme for the implementation of the agreed boundary treatment. The boundary treatment shall be undertaken in accordance with the agreed details.
- 6) The outbuilding to the rear of the site shall be used for no purpose other than for the storage of cycles.
- 7) The hereby approved House in Multiple Occupation shall provide residential accommodation for a maximum of ten people.