



Appeal Decision

Site visit made on 22 September 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Appeal Ref: APP/Q3060/W/22/3299630

259 Woodborough Road, Nottingham NG3 4JZ

- 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 Zain Khan of Landline Properties Ltd against the decision of Nottingham City Council.
 - The application Ref 22/00348/PFUL3, dated 27 January 2022, was refused by notice dated 9 May 2022.
 - The development proposed is change of use from Use Class C3 to an HMO within Use Class C4 and erection of a rear dormer.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the provision of family accommodation as part of the housing mix to create and maintain balanced communities;
 - whether the proposed development would provide acceptable living conditions for future occupiers with regard to internal space; and
 - the effect of the proposed development on the living conditions of neighbouring residents.

Reasons

Family Accommodation

3. Policy 8 of the Aligned Core Strategies Part 1 Local Plan adopted 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 houses in multiple occupation (HMOs).
4. Policy HO1 of the Local Plan Part 2 – Land and Planning Policies Development Plan Document adopted 2020 (the LAPP) encourages the development of sites for family housing, including larger family housing as opposed to other forms of residential accommodation, where sites are capable and suitable of accommodating such housing. Policy HO2 of the LAPP sets out a presumption

against the loss of dwellinghouses suitable for family accommodation unless certain exceptions apply. Policy HO6 of the LAPP states that planning permission for the change of use to create new HMOs will only be granted where it does not conflict with Policies HO1 and HO2 and does not undermine local objectives to create or maintain sustainable, inclusive and mixed communities.

5. The policies and associated supporting text indicate that the housing mix being sought is against a backdrop of low provision of family housing and the number of HMOs in certain parts of the city.
6. Based on the submitted plans, the size of the appeal property would not preclude its use by families, and indeed it may be capable of providing accommodation for larger families, which is supported by Policies 8 and HO1. The rear outdoor amenity space is moderate given the size of the property. It has quite an enclosed outlook due in part to the high retaining walls along two of its boundaries. Nevertheless, it provides some private outdoor space, and its enclosed form may assist in its suitability for family use from a safety perspective. Although the property is well located in relation to the city centre and public transport, the lack of off-street car parking and its location close to the road, together with the character of the outdoor amenity area and the use of the adjoining property as an HMO, may not prove attractive to some families compared to other properties within the vicinity.
7. However, it has not been shown that these characteristics make the house unsuitable for family occupation, for example through evidence of unsuccessful attempts to sell or let it for family occupation. Based on the evidence before me therefore, there is not a compelling reason why the property would not be suitable for families. In this regard, I note that it was occupied as a family dwelling prior to its sale to the appellant.
8. There is no substantive evidence before me which satisfactorily demonstrates that the exceptions in Policy HO2 relating to the loss of dwellinghouses for family occupation would apply. This includes whether the proposal would fulfil other regeneration or housing aspirations of the Council and local evidence of need and demand for an alternative mix of housing. As I have set out above, the property's location, size and layout would not inhibit family occupation. Consequently, compliance with the exceptions in Policy HO2 have not been sufficiently evidenced.
9. The proposed development would result in the loss of accommodation suitable for family occupation, and given the policy context, this weighs significantly against it.
10. As I find that there would be a conflict with Policies HO1 and HO2, the proposal would also conflict with Policy HO6 of the LAPP in this regard. Furthermore, Policy HO6 states that, in assessing the development's impact on local objectives to create or maintain sustainable, inclusive and mixed use communities, regard will be given to the existing proportion of HMOs and/or other Student Households in the area and whether this proportion amounts or will amount to a 'Significant Concentration'. The methodology referred to in Policy HO6 sets out that a threshold of 10% will determine that the area concerned has a 'Significant Concentration'. In such cases, planning permission will not normally be granted for further HMOs or purpose-built accommodation.

11. The appellant states that the wider area has a well balanced mix of housing, with the area to the east being almost entirely social family housing. However, based on the methodology on which Policy HO6 is based, the Council's information states that the relevant Output Area cluster has a concentration of 11.2% and 26.1% in the core output area. The appellant contends that the figures used by the Council are skewed by the nearby purpose-built student accommodation on St Anns Hill. However, the methodology incorporates an approach for addressing areas with this type of accommodation. Consequently, based on the evidence before me, the proposal would result in a significant concentration of HMOs in the area.
12. My attention has been drawn to the appeal decision for the conversion of the neighbouring property at no. 257 to an HMO¹. The Inspector for that scheme did not consider that the use of the property as an HMO would harm the objective of maintaining mixed and balanced communities. However, the LAPP was not adopted at that time and the appellant's evidence indicates that a higher threshold figure was in place. Furthermore, it appears that the Inspector did not have evidence that the HMO concentration threshold would be exceeded, which is not the case here.
13. I note the appellant's argument that the extant planning permission granted on appeal in 2021² to convert the appeal property to two flats means that its loss as a family dwelling has already been accepted. However, the Inspector for that proposal saw no reason why the flats could not be occupied by families as smaller residential homes, particularly with the design of the upper floors as a two-bedroom flat. The granting of this planning permission does not therefore mean that the requirements of Policy HO2 of the LAPP no longer apply.
14. I therefore conclude that the proposed development would have an unacceptable effect on the provision of family accommodation as part of the housing mix to create and maintain balanced communities. Accordingly, it would conflict with the relevant requirements of Policy 8 of the ACS and Policies HO1, HO2 and HO6 of the LAPP, which have been summarised above.

Living Conditions for Future Occupiers

15. The proposed development would provide limited communal space, comprising a combined kitchen and dining space, but with no separate living area. However, although no specific details of the required space standards have been provided as part of the appeal submissions, including whether a separate living area would be required, the information in the Council's Officer Report states that all rooms would exceed the recommended minimum space requirements.
16. There is also a rear outdoor amenity area which would be large enough to accommodate outdoor seating and drying facilities. This would enhance the communal living space, particularly during good weather, albeit with a somewhat reduced outlook as noted above. Moreover, from the submitted plans and what I observed during my site visit, the bedrooms would be of a reasonable size, and would include ensuite facilities. Windows would provide light and air and there would be space to accommodate some furniture in

¹ Appeal reference APP/Q3060/W/18/3207590

² Appeal reference APP/Q3060/W/21/3271298

addition to beds. The bedrooms would provide an environment in which occupiers would likely be comfortable spending time within their rooms.

17. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers with regard to internal space. Accordingly, it would accord with the residential amenity requirements of Policy 10 of the ACS and Policies DE1 and HO6 of the LAPP.

Living Conditions of Neighbouring Residents

18. The Council is concerned about the potential noise and disturbance that would result from the use of the property as an HMO, and considers that incidents of anti-social behaviour, poor up-keep and the inappropriate management of waste disposal are all problems commonly associated with HMO properties.
19. The property is quite a substantial sized dwelling capable of accommodating a relatively large family. I acknowledge that HMO occupation can be different to family occupation. It is generally more transient, with a different nature and pattern of activity. However, the noise and disturbance from students or other unrelated adults' comings and goings would not be significantly different to that of a large family where there would potentially be journeys to work, school and social events. Nor would other potential forms of noise and disturbance such as the playing of music or social activities in the property or outdoor amenity area necessarily be any more likely to cause harm to neighbouring residents than would be the case with a large family engaging in similar activities.
20. The submitted plans illustrate that provision would be made for the storage of waste bins within part of the existing side extension to the property. This would be accessed from the kitchen/dining area and the front of the property. I saw no evidence around the property or the general area to indicate that there were issues of over-spilling bins or inconsiderate waste disposal, nor have I been directed to any reports or complaints to the Council's waste collection teams or to the Council's enforcement or environmental health teams with regards to anti-social behaviour. In addition, the properties in the vicinity, including those identified as being HMOs, appeared to be reasonably well maintained.
21. For the reasons given above, I conclude that the proposal would not cause harm to the living conditions of neighbouring residents. Consequently, the proposed development would accord with the residential amenity requirements of Policy 10 of the ACS and Policies DE1 and HO6 of the LAPP.

Conclusion

22. I have found that the proposed development would provide acceptable living conditions for future occupiers with regard to internal space and would not cause unacceptable harm to the living conditions of neighbouring residents. However, the proposed development would result in the loss of a property that is suitable for family accommodation as part of the housing mix to create and maintain balanced communities. To this extent there would be conflict with the development plan when considered as a whole. Therefore, the appeal should be dismissed.

F Wilkinson

INSPECTOR