



Appeal Decision

Site visit made on 15 November 2022

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2023

Appeal Ref: APP/J3015/W/22/3303769

65 Pelham Crescent, Beeston, Nottingham NG9 2ER

- 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 Zepeng Wen against the decision of Broxtowe Borough Council.
 - The application Ref 22/00203/FUL, dated 4 March 2022, was refused by notice dated 10 May 2022.
 - The development proposed is for the refurbishment and extension of 3 bed property (C4) to accommodate 5 no en-suite bedrooms.
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Decision

1. The appeal is allowed and planning permission is granted for the refurbishment and extension of 3 bed property (C4) to accommodate 5 no en-suite bedrooms at 65 Pelham Crescent Beeston, Nottingham NG9 2ER in accordance with the terms of the application, Ref 22/00203/FUL, dated 19 March 2022, and the plans submitted with it, subject to the following conditions in the attached schedule.

Background and Preliminary Matters

2. I have amended the application description in the banner heading as per the appeal form. Whilst it constitutes a minor change, it is made in the interest of clarity and brevity.
3. At the time of my site visit, foundations for a rear extension had been constructed. The appellant states that this is in association with planning permission 19/00300/FUL, which I am advised was for the same development as this appeal proposal. I have been provided with that decision notice, and the description of development was '*Construct single/two storey rear extension*'. I have been advised that the Council changed that description from '*Refurbishment and extension of residential property (C3) to accommodate 5 no en-suite bedrooms (C4)*'.
4. Notwithstanding the above permission, the appellant also states that the existing use was an HMO before the Council subsequently introduced an Article 4 direction on 26 March 2022. Amongst other restrictions this removed the right to change from a Use Class C3 Dwellinghouse to Use Class C4 HMO without the benefit of planning permission. The Council's conclusion on this is that there is not enough evidence that it was an HMO.
5. However, it is not within the remit of this appeal, which has been made under section 78 of the Act, to determine whether planning permission is required, a material change of use has taken place and if the Council's views on this

matter are correct. The correct procedure would be to make an application under section 191 or 192 of the Act for a certificate of lawfulness. For the purposes of this appeal, I have therefore assumed the proposal amounts to a material change of use and for the proposed extension for which planning permission is required. I have therefore dealt with appeal on this basis.

6. The Council's adopted Houses in Multiple Occupation – Supplementary Planning Document July 2022 (SPD) sets out that the total number of known HMO properties should not exceed 20% relative to the total number of properties within a 100m radius of the application property. This is a change from the officer report (10%). I am aware that the officer report referred to a draft version of the SPD, and as such I am satisfied that the correct figure is 20%, and that no parties would be prejudiced as the officer report referred to a potentially higher concentration figure for the SPD which has subsequently been adopted since the Council refused the application on 10 May 2022.

Main Issues

7. The main issues are the effect of the proposal on:
 - the living conditions of existing occupiers with particular regard to noise and disturbance to No 67 Pelham Crescent (No 67) and more broadly the residents in the area; and
 - highway safety.

Reasons

Living conditions

8. The appeal site comprises a detached dwelling located within a residential area. The property has a parking space for at least 1 car and side access to the rear, which contains a modest garden with good boundary treatment to all sides. The appeal site is close to the University of Nottingham. Pelham Crescent leads from a short stretch from Salisbury Street, which in turn leads from a main 'A' road where bus, tram and cycle routes can be easily accessed from the appeal site. Pelham Crescent is not a continuous straight road, and the section with the appeal site has 4 detached dwellings which only face onto one side of the road. The opposing side of this part of Pelham Crescent comprises fencing around the flank walls of 2 properties and the side boundaries of their gardens.
9. It was not possible, from my site visit, to note how many dwellings are HMOs as this could be done with minimal external changes, which would not indicate it is multiple occupancy. However, the Council's SPD sets out that if the HMO quantity exceeds 20% relative to the total number of properties within a 100m radius that it could make community cohesion difficult.
10. The Councils policies in respect of housing mix, seek to facilitate sustainable and inclusive communities, and the SPD is intended to address the over concentration in some neighbourhoods. In this case, the Council and interested parties have stated a figure of 36 of 120 properties, which equates to 30% being HMOs, and also stating that No.63 Pelham Crescent as well as No.65 are both HMOs.
11. However, I have not been provided with any evidence such as a radius map, nor locations of the other HMOs by the Council to quantify these figures, which

limits the weight I can give to this evidence. In any event, notwithstanding that a 30% ratio of HMOs would result in a conflict with the SPD, this does not state that an HMO will not be allowed, as it recognises, that HMOs form an important part of the housing mix.

12. The Council's SPD thus sets out scenarios whereby a concentration would not be supported. As such even if No. 63 and No. 65 were both HMOs this would not lead to any 'clustering' or 'sandwiching' set out within the SPD because there are limited dwellings directly opposite the appeal site. In addition, the SPD also acknowledges other material considerations would form part of the assessment. Therefore, whilst I acknowledge a conflict with the SPD in terms of percentage of purported HMOs, in this instance I do not find that on its own it is reason to warrant dismissal of the appeal.
13. Notwithstanding the above, the prevailing concerns set out in the Council's reason for refusal relate to the concentration of HMO uses eroding the community values of the area by introducing a more transient population of mostly single individuals into what is a predominantly family orientated neighbourhood. I do accept that there is a greater intensification in the use of the appeal property as an HMO compared to a C3 Use as the nature of an HMO use is that it permits the rooms in the property to be occupied by unrelated adults. Concerns have been raised in respect of the increase in disturbance from loud music, increase in rubbish on the roads and anti-social behaviour. Whilst this is not pleasant, and I sympathise I have no evidence that this has been directly attributable to the appeal property, and it seems largely related to the behaviour of individuals and so carries limited weight.
14. Although the Council has stated the appeal site adjoins No 67 the appeal property is a substantial detached dwelling and does not adjoin it. The detached nature of the property would limit the potential for noise transfer to No 67. There is adequate space for refuse storage within the garden or to the side of the dwelling, which could be well screened from neighbours. At my site visit, I noted the entry to the property was sited away from No 67, and I therefore find this would lessen the effect of comings and goings from views from windows within that property. The boundary treatment within the garden was well established and this would preserve privacy outside.
15. In this instance I also find the layout arrangement of Pelham Crescent affords more space and separation around dwellings and back-to-back between gardens generally. As previously noted, the appeal site with dwellings only fronting one side of the road, means that there are no windows from dwellings directly opposite the appeal site. The appeal site has an outbuilding within the garden and good boundary treatment to the rear and side, which would limit the visual activity within the garden.
16. Overall, the intensification would be moderate and in proportion to the existing pattern of activities for this busy area and also in proportion to size of the property, which is detached and could accommodate a larger family. Indeed, the overall density of development in the area is also such that there is likely to be activity throughout the day and evening, as such I did not find it was an inherently quiet area.
17. I find therefore, that the type of property, garden size and boundaries would reduce the awareness of comings and goings, other noise and disturbance for surrounding residents and the adjacent No 67. The overall density of

development in the area is also such that there is likely to be activity throughout the day and evening, as such I did not find it was an inherently quiet area.

18. I therefore conclude that the proposed development would not have an adverse effect on the living conditions of the occupiers of No 67 and residents within the wider area. The proposal therefore accords with Policies 8 and 10 of the Greater Nottingham Aligned Core Strategy (September 2014) (ACS) and Policy 17 of the Broxtowe Borough Council Part 2 Local Plan 2018 – 2028 (LP) which insofar as they relevant to the appeal are concerned with ensuring balanced communities and protection of the living conditions of existing residents. As such, whilst I acknowledge the aims of the SPD, which is guidance, overall, I do not find conflict with this document.

Highway safety

19. The increase in the number of occupants may result in some additional pressure on existing on-street parking capacity. However, despite pressure for parking for nearby public transport facilities, I noted that unrestricted on-street parking was available on nearby streets. At the time of my site visit, when it may be expected that commuters would have been parked, there was on-street parking capacity. Although I acknowledge that this could change and demand for this parking may be higher at other times or different points in the week, these transport links to the bus, tram and cycle network would also in my view reduce the necessity for reliance on the private car.
20. My attention has also been drawn to dangerous parking and driving. However, I have been given no evidence that it could be attributed to the occupiers of the HMOs. Neither have I been provided with any concerns from the Local Highway Authority. In the absence of any convincing evidence regarding parking capacity, highway safety and having regard to the nature and location of the appeal site, with no dwelling frontages opposite I am not persuaded that the absence of further on-site parking would lead to any adverse impact on highway safety.
21. I conclude therefore, that the proposal would not harm highway safety. As such it would not be contrary to ACS Policy 10 or Policy 17 of the LP. These seek to ensure living conditions for neighbouring residents are not adversely affected and that the development provides sufficient, well-integrated parking and safe and convenient access. The proposal would not conflict with the SPD in this respect.

Other Matters

22. My attention has been drawn to a recent appeal decision¹ on Salisbury Street. Whilst I note the findings, I have determined this appeal on its own merits, which I find are different in terms of type of property and position within the street and neighbouring surroundings.
23. Similarly matters in relation to HMO licensing also do not fetter how a development is to be considered, the Council has not raised any concerns within their reasons for refusal about the standard of accommodation for future occupiers. Notwithstanding that interested parties have raised concerns about the effect of the proposed extensions on their living conditions, this has not

¹ Appeal Ref: APP/J3015/W/20/3247066

been transposed to the reasons for refusal, and the Council have accepted that the design would be acceptable and there would be no unacceptable loss of privacy or light. I see no reason to disagree on these matters.

24. I do sympathise with neighbouring concerns, it is unfortunate that some landlords, letting agents or developers do not redress complaints. However, this is not a matter I can address as it is beyond the remit of my decision. I also note residents feel powerless; however, the Article 4 direction would allow further control on a case-by-case basis, and many scenarios could well be different to this particular circumstance.

Conditions

25. I have imposed the standard time limit and a condition specifying the approved drawings as this provides certainty. I have also imposed the suggested Environmental Health officer condition for a construction method statement. Whilst such a condition was not attached to the earlier permission, I have amended it in the interest of clarity and imposed due to the proximity of neighbouring residents in this busy residential area. The appellant has provided formal agreement to this pre-commencement condition. I have also imposed a restriction limiting the maximum occupancy of the premises to 5 people to align with the description of the development, which the main parties have agreed to. This is reasonable and necessary to maintain accommodation standards and to protect the living conditions of neighbouring occupiers.
26. The appellant has also shown that the development will comply with the Environment Agency Flood Risk advice requirements, with the submitted drawings showing finished floor levels the same as the original property, therefore conditions are not attached in this respect. Nor have I attached any condition in relation to the requirement for refuse bins, as none were suggested by the Council, and in any event are already provided and likely to be a requirement of HMO licensing.

Conclusion

27. For the reasons given above the proposal accords with the development plan as a whole and the appeal is allowed. I therefore conclude that the appeal should be allowed.

K Williams

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans dated 9 May 2019: Site Location Plan-2652(08)001, Proposed Block Plan/Roof Plan-2652(08)003 A, Proposed Elevations-2652(08)E01, Proposed Elevations-2652(08)E02, Proposed Ground and First Floor Plans-2652(08)G01, Proposed Sections-2652(08)S01, Existing Block Plan/Roof Plan-2652 (08) 002 2019, Existing Elevations-2652 (02) E01, Existing Ground and First Floor Plans-2652 (02) G01, Existing Elevations-2652 (02) E02, Existing Section-2652 (02) S01.
- 3) No development hereby approved shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include:
 - a) the means of access for construction traffic;
 - b) parking provision for site operatives and visitors;
 - c) the loading and unloading of plant and materials;
 - d) the storage of plant and materials used in construction of the development;
 - e) a scheme for the recycling/disposal of waste resulting from construction/demolition works;
 - f) details of dust and noise suppression to be used during the construction phase.
 - g) A report identifying any asbestos and documenting its safe removal; and
 - h) construction hours.The approved statement shall be adhered to throughout the construction period.
- 4) The number of occupants residing at the premises shall not exceed 5 persons.

END OF SCHEDULE