



Appeal Decision

Site visit made on 3 January 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2023

Appeal Ref: APP/J3015/W/22/3302691

42-48 Henry Road, Beeston, Nottinghamshire NG9 2BE

- 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 Vinay Parmar of Excel Commercial Ltd against the decision of Broxtowe Borough Council.
 - The application Ref 22/00101/FUL, dated 8 February 2022, was refused by notice dated 24 June 2022.
 - The development proposed is the conversion of the existing ground floor garages to create 2no C4 apartments (4 bedrooms) at 42-48 Henry Road, Beeston, Nottingham, NG9 2BE.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the existing ground floor garages to create 2no C4 apartments (4 bedrooms) at 42-48 Henry Road, Beeston, Nottinghamshire NG9 2BE in accordance with the terms of the application, Ref 22/00101/FUL, dated 8 February 2022, subject to the conditions in the schedule to this decision below.

Procedural Matters

2. The address in the banner heading above differs to that contained in the planning application form. However, the Council's decision notice and the appellant's appeal form refer to the site address as 42-48 Henry Road. I have therefore determined the appeal on this basis.
3. The Council's first reason for refusal detailed in their decision notice refers to a draft Houses in Multiple Occupation Supplementary Planning Document (SPD). Since the Council's decision was issued, the Council adopted the SPD in July 2022. The Council has stated in their appeal statement that changes were made to the SPD between the draft version and adoption. A copy of the adopted SPD was submitted with the Council's appeal documents and the appellant has had the opportunity to comment upon it. The appellant has not been prejudiced by its inclusion and therefore I have determined the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character of the surrounding area;
 - the greater-needed housing in the Borough;
 - highway safety; and

- the living conditions of future occupiers, with particular reference to outlook.

Reasons

Character and Appearance

5. The appeal site comprises two purpose-built, three-storey apartment blocks that face inwards towards an area of off-street parking. The appeal proposal involves the larger of the two buildings and proposes the conversion of the ground floor garages and the existing 2-bedroom apartments on the first floor, to create two, 4-bedroom Houses in Multiple Occupation (HMO). The two apartments on the second floor would be unaffected. Two additional parking spaces are proposed within the existing parking area. The appeal site is located at the end of Henry Road, a predominantly residential street, although a single storey commercial premises is located to the rear of the appeal building.
6. The SPD seeks to prevent the clustering of HMOs and seeks to manage their concentration within the Borough. Consideration will be given to the impact of: (i) more than 3 known consecutive HMOs on the same street or adjoining street if located on a corner plot; (ii) more than 2 known consecutive HMOs positioned opposite to 2 or more known consecutive HMOs; (iii) the total number of HMO properties exceeding 20% relative to the total number of properties within a 100m radius of the property; and (iv) a dwelling positioned in between two known HMOs either adjacently or to the front and rear.
7. The Council has provided, within their appeal statement, a map extract of the appeal site with a 100m radius shown and annotations depicting the location of all known HMOs. I have not been provided with any further information from the Council to indicate that the number of HMOs has changed since they submitted their appeal statement, and the information provided by third parties regarding the number of HMOs in the surrounding area is inconsistent and unsubstantiated.
8. The evidence indicates that there are currently no HMOs on Henry Road and therefore the proposal would comply with criteria listed as (i) and (ii) above. The Council has identified 16 known HMOs within a 100m radius of the appeal site, which they say would equate to 12.7% of the total number of properties, below the threshold of 20% as defined within the SPD. This has not been disputed by the appellant. Concern has been raised that the proposal would lead to "sandwiching" due to the retention of the two second floor apartments. However, the proposed HMOs would be positioned below the existing apartments, not adjacent or to the front or rear, and therefore they would not lead to "sandwiching" as defined within the SPD. The information before me therefore suggests that the proposal would not lead to a cluster or concentration of HMOs in this part of the Borough.
9. The predominant house type within Henry Road and the surrounding area would remain as Use Class C3 dwellings. The proposal would therefore add to the mix of dwelling types in the surrounding area but would not alter the profile of the neighbourhood or significantly affect the sense of community cohesion. The proposal would therefore support the creation of a sustainable, balanced, inclusive, and mixed community.

10. In respect of the first main issue, the proposal would not adversely affect the character of the surrounding area. It would comply with Policy 8 of the of the Broxtowe Aligned Core Strategies Part 1 Local Plan, adopted 2014¹ (CS) which, amongst other things, seeks to provide a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. The proposal would also comply with the SPD.

Greater-Needed Housing in the Borough

11. The current apartments add to the mix of housing size and choice within the surrounding area that is predominantly occupied, according to the Council, by three-bedroom houses that are not affordable for everyone. The proposal would lead to a loss of this type of housing. However, limited evidence has been provided to ascertain if the existing apartments are in fact in greater need than the appeal proposal. Furthermore, concern has been raised that the proposal would lead to a loss of apartments for first-time buyers or for people to rent a more modern property. However, these views are unsubstantiated. Furthermore, the apartments would still be available to rent.
12. The SPD highlights that HMOs are a significant part of the housing mix within the Borough and that they have an important role in providing accommodation to a range of individuals. The proposal would utilise a purpose-built apartment block whereby the second bedroom within each of the existing apartments does not meet the minimum size of a single bedroom² and therefore it is likely that each apartment would be occupied by a single person or a couple. The proposal would therefore not displace existing family housing. Furthermore, the proposal would add to the mix of housing within Henry Road, which predominantly comprises semi-detached, three-bedroom, two-storey dwellings.
13. In reference to the second main issue, the proposal would not lead to a loss of greater-needed housing. It would therefore comply with Policy 8 of the CS and Policy 15 of the LP that together, amongst other things, seek to ensure a broader mix of housing and an appropriate mix of house size, type, tenure and density to ensure that the needs of the residents of all parts of the Borough, and all age groups (including the elderly), are met.

Highway Safety

14. I note the concerns that parking is already problematic within the surrounding area and that the proposed change of use could further exacerbate this problem. However, this would not in itself cause harm to highway safety. It would only become a highway safety issue if the proposed change of use would lead to an intensification of parking and that parking would inhibit the free movement of vehicles or lead to people parking their vehicles in ways that would cause an obstruction or be dangerous.
15. The proposed development would result in the loss of 6 garages to the ground floor of the building. However, both main parties concede that the garages are not of a size that can accommodate a vehicle. To the front of the building is a parking and turning area that serves the appeal building and an adjacent smaller block of apartments. As part of the proposal, the number of parking spaces within the appeal site would be increased from 8 to 10.

¹ Greater Nottingham Broxtowe Borough, Gedling Borough, Nottingham City Aligned Core Strategies Part 1 Local Plan, adopted 2014

² Technical Housing Standards – Nationally Described Space Standard, adopted 27 March 2015

16. The proposal would have a total of 8 bedrooms, and two 2-bedroom apartments would be retained within the second floor of the appeal building. The smaller adjacent apartment building contains 3 apartments. The Highway Authority previously raised no objection to the proposal, as according to the guidance at the time (the draft SPD), the two blocks of apartments would generate a requirement of 9 parking spaces and 10 spaces were proposed. However, the adopted SPD increased the parking requirement for HMOs from 0.5 spaces per bedroom to 1 space per bedroom. Therefore, according to the adopted SPD, the total number of off-street parking spaces required for the two apartment blocks would be 13 spaces; a deficit of 3 spaces. The access into the appeal site from Henry Road would not be altered by the proposed development and the vehicle tracking shown on the submitted drawings indicates that vehicles would be able to turn and exit the appeal site in a forward gear.
17. Henry Road comprises a long no-through road with a turning head at the end. It predominantly comprises semi-detached dwellings, with many having off-street parking. There are no parking restrictions along the road. At the time of my site visit, I noted that vehicles were parked along both sides of the road, but spaces were available. I also noted that the turning head was blocked by parked vehicles, however, from the evidence before me, it is unknown who these vehicles belonged to. Furthermore, the parking area for the apartments was only occupied by one vehicle. However, I appreciate that this was a snapshot in time.
18. Concern that emergency services are currently impeded by vehicles parked along both sides of the road is unsubstantiated and inconsistent with a third party comment that large vehicles reverse down the road to access the commercial premises located at the end.
19. Bus stops and tram stops are within walking distance of the appeal site that provide access to Nottingham city centre and Nottingham train station. Beeston town centre and the University of Nottingham are also within walking distance of the appeal site. Therefore, future occupiers of the proposal would have access to a range of services, facilities and sustainable modes of transport without reliance on the private car. Furthermore, the Highways Authority did not raise an objection to the same development with 10 off-street parking spaces. I therefore find that the proposed change of use would not result in an intensification of parking in the surrounding area that would lead to a highway safety issue.
20. In respect of the third main issue, and despite a technical breach of parking standards outlined in the SPD, I do not find that the proposal would result in harm to highway safety. It would therefore comply with Policy 17 of the LP, which seeks to provide sufficient, well-integrated parking, safe and convenient access, encourages walking and cycling, and has good access to public transport.

The Living Conditions of Future Occupiers

21. It is proposed to insert new windows into the ground floor rear elevation of the existing building. Four windows would be shower room windows, and a further four windows would serve a living room and a kitchen in both apartments. The windows would be sited in close proximity to a single storey commercial unit to the rear of the appeal site. Within the ground floor front elevation of the building, it is proposed to replace the garage doors and insert 3-pane width floor-to-ceiling windows, with one containing the front door to each apartment.
22. The shower room windows would be high-level and obscure glazed and therefore would not afford an outlook to future occupiers. The rooms that would house the kitchen and living room of each ground floor apartment would occupy the full width of the building, would be dual aspect, with the larger of the two windows located within the front elevation that would face the open and spacious courtyard area to the southeast. Therefore, a sufficient level of outlook would be provided from the windows in the front elevation so as not to adversely affect the living conditions of the future occupiers of the proposed development.
23. In respect of the fourth main issue, the proposed development would not adversely affect the living conditions of future occupiers, with particular reference to outlook. The proposal would comply with Policy 10 of the CS and Policy 17 of the LP, which together seek to ensure a satisfactory degree of amenity for occupiers of new developments. The proposal would also comply with Section 12 of the National Planning Policy Framework (NPPF) that aims to create places with a high standard of amenity for existing and future users.

Other Matters

24. The construction phase of the development could potentially be disruptive however, it would be short-term and is not a reason for withholding permission. There is nothing before me to suggest that the HMOs would be an unpleasant environment in which to live. Third party views that there is a lack of need for HMOs in the area, and that there is a lack of need for student accommodation when there are purpose-built student accommodation blocks in the city centre, are unsubstantiated by any compelling evidence that would lead me to a different decision.
25. The proposal is for two HMOs, not affordable housing as defined by Annex 2: Glossary of the NPPF. Therefore, even if there was a need for affordable housing within the surrounding area, this is not the development before me. Concerns regarding the landlord putting up rent, a loss of Council Tax payments, and a lack of communication from the landlord/developer to existing occupiers regarding the proposal, are not matters for consideration in this appeal.

Conditions

26. I have had regard to the conditions suggested by the Council. Where necessary, I have made amendments to these in the interests of clarity and precision. In addition to the standard condition, which relates to the commencement of the development, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A condition in

respect of flood mitigation measures is necessary due to the appeal site's location within Flood Zones 2 and 3.

Conclusion

27. For the reasons given above and having regard to the development plan as a whole and all other matters raised, I conclude that the appeal is allowed.

A Berry

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the Site Location Plan and drawing numbers 003 Rev D and 004 Rev E.
- 3) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment (Ref: RLC/0937/FRA01, issued on 04/02/2022) and the following mitigation measures it details:
 - Finished floor levels shall be set no lower than 27.20m above Ordnance Datum.
 - No sleeping accommodation to be provided on the ground floor.
 - Flood resistance measures shall be implemented so that the development is resistant up to a height of 27.80mAOD (i.e. flood doors, backwater and non-return valves, and raised electrical fittings).

These mitigation measures shall be fully implemented prior to the occupation of the proposal hereby approved and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

*****End of Conditions*****