



Appeal Decision

Site visit made on 14 November 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2023

Appeal Ref: APP/J3015/W/22/3312592

36 Mona Street, Beeston, Nottinghamshire NG9 2BY

- 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 Miss Naimh Brady of Sandstone UK Property Investment Ltd against the decision of Broxtowe Borough Council.
- The application Ref 22/00583/FUL, dated 15 July 2022, was refused by notice dated 26 October 2022.
- The development proposed is change of use from (C3) dwelling house to house in multiple occupation (C4).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of clarity, I have taken the description of development from the decision notice and the appeal form rather than the planning application form.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character of the area, with regards to the balance and mix of housing; and
 - the living conditions of the occupiers of 34 Mona Street, with regards to noise and disturbance.

Reasons

Character of the area

4. The appeal property is a semi-detached dwelling in a predominantly residential area. The local area is covered by an Article 4 Direction which has removed permitted development rights that allow the change of use from a dwellinghouse, within Class C3 of the Town and Country Planning (Use Classes) Order, to a Class C4 use as a dwellinghouse by not more than six residents as a House in Multiple Occupation (HMO).
5. Policy 8 of the Aligned Core Strategy Part 1 Local Plan (CS) seeks to ensure that, amongst other things, development should maintain, provide and contribute to a mix of housing tenures, types, and sizes in order to create sustainable, inclusive and mixed communities.
6. The HMO Supplementary Planning Document (SPD) has been adopted since the Article 4 Direction came into force. It provides guidance on the management of

HMOs and their impact on character and appearance in addition to ensuring that they provide a high standard of living conditions. Therefore, notwithstanding that the SPD recognises that HMOs have an important role in providing accommodation to a range of individuals, it seeks to prevent excessive concentrations which, the SPD says, can lead to identifiable impacts on amenity. To do this, the SPD sets out several indicators of over-concentration of HMOs.

7. One of the indicators in the SPD is the total number of known HMO properties exceeding 20% relative to the total number of properties within a 100m radius of the application property, the radius approach. The Council states that in this case 14.6% of the total number of properties in the radius of the appeal site are HMOs. The Council, however, consider that the actual total number exceeds 20% due to the likelihood of additional, unknown, HMOs being present. Nevertheless, no substantive evidence has been presented that substantiates this claim and even if such evidence was before me the SPD sets out that the calculation is based on 'known' rather than suspected HMOs.
8. The use of the appeal property as a HMO would not result in, or add to, a row of more than 3 consecutive HMOs or adjoin 2 known consecutive HMOs positioned opposite to 2 more known HMO properties. Therefore, it would not amount to 'clustering' as set out in the SPD.
9. It would, however, conflict with the final SPD indicator as the appeal proposal would result in 34 Mona Street (No 34) being sandwiched between two HMOs. Consequently, in the absence of substantive evidence that demonstrates otherwise, the application of the SPD guidance leads to the conclusion that the proposal would result in an over-concentration of HMOs in the immediate vicinity of the appeal site. As such, the proposal would create an imbalance in the mix of residential units in the area, thereby undermining its sustainability and eroding the character of the area.
10. I therefore conclude that the development would have a harmful effect on the character of the area with regards to the balance and mix of housing. Accordingly, the proposal would conflict with CS Policies 8 and 10, Policy 17 of the Part 2 Local Plan (LP) and the SPD which, insofar as they are relevant to the appeal, seek to ensure balanced communities and enhance local identity. It is also contrary to the relevant provisions of chapter 12 of the National Planning Policy Framework.

Living conditions

11. The occupiers of an HMO are likely to lead lives which are independent from one another, whereas a family occupying a single dwelling are more likely to carry out day to day activities together as a household. Four individual people, in the 4 proposed bedrooms, would likely have separate routines, with their attendant comings and goings and those of their visitors. The activity generated by this would be markedly more intensive than would reasonably be expected from a single dwelling, even one occupied by a large family.
12. Such an increase in activity would lead to an increased level of general noise and disturbance. This would be particularly intense for the occupants of No 34 as they would be sandwiched between two HMOs with a third HMO sited diagonally opposite. The occupants of No 34 would, therefore, experience the cumulative impact of being in very close proximity to, and partially enclosed

by, HMOs thereby creating uncomfortable and unacceptable living conditions for them.

13. I therefore find that the development would have a harmful effect on the living conditions of the occupiers of 34 Mona Street with regards to noise and disturbance. Consequently, the proposal would conflict with CS Policies 8 and 10, LP Policy 17 and the SPD which, insofar as they are relevant to the appeal, seek to protect the living conditions of existing residents.

Other Matters

14. My attention has been drawn to a Certificate of Proposed Lawful Development for a proposed change of use from dwellinghouse to Class C4 HMO, which was granted in 2021 in respect of the appeal property. Due to delays beyond the appellants control the change of use was not implemented before the Council applied the Article 4 Direction referred to above. Whilst I do sympathise with the appellant in this regard, it remains that the Certificate can no longer be implemented and, accordingly, it does not weigh in favour of the proposal.
15. I acknowledge that the area is popular amongst student renters who find it extremely convenient for the University and that this leads to a high demand for this type of housing. Nonetheless, there is no substantive evidence before me that demonstrates that there is an identified shortage of HMOs, and even if there were such evidence that does not justify development which I have found to be harmful.
16. I have considered the concerns of interested parties regarding a lack of parking. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on such a matter.

Conclusion

17. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
18. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR