
Appeal Decision

Site visit made on 21 November 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023.

Appeal Ref: APP/Q3060/W/23/3325395

19 Claude Street, Dunkirk, Nottingham NG7 2LA

- 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 F Sarricchio against the decision of Nottingham City Council.
 - The application Ref 23/00393/PFUL3, dated 3 March 2023, was refused by notice dated 25 April 2023.
 - The development proposed is described as ground floor rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in September 2023, replacing the version published 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues are:
 - i) the effect of the proposed development upon the living conditions of the existing occupiers, with particular regard to outlook and light;
 - ii) the effect of the proposed development upon the character and appearance of the area, in terms of the mix and balance of housing in the area; and
 - iii) the effect of the proposed development upon the living conditions of neighbouring properties.

Reasons

4. The appeal property comprises a two-storey mid-terraced dwelling. The existing property has a patio area directly to the rear of the dwelling enclosed by a high wooden fence and a rear garden, accessible via a shared pathway. The area surrounding the appeal site is residential with two and three-storey terraced properties predominant.

Living conditions – existing

5. The window to the ground floor bedroom would be set opposite, and extremely close to, a wall of the proposed extension. Accordingly, this bedroom would have very limited natural sunlight and daylight, coupled with poor outlook. Bedrooms in HMO's will likely to be used often as they are the only private space for occupants. I therefore consider this awkward layout would result in unsatisfactory living conditions for the occupiers of this bedroom.
6. The provision of ground floor WC amenities would be beneficial to the occupiers of the existing property. However, this is a neutral consideration in the determination of this appeal.
7. For the above reasons, I conclude that the proposed development would not provide satisfactory living conditions for the occupiers of the existing property. Accordingly, I find conflict with Policy H10 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014 (ACS) and Policy DE1 of the Nottingham City Land and Planning Policies Development Plan Document Local Plan Part 2 2020 (LAPP). I also find conflict with the Framework. Collectively, these policies require developments to provide a high standard of amenity for existing and future users.

Character and appearance

8. Policy H06 of the LAPP requires that a change of use to extend or alter HMOs, including development that facilitates an increase to the number of occupiers or bedspaces, should not undermine local objectives to create or maintain sustainable, inclusive or mixed communities. Consideration will be taken with regard to the number of HMOs or student households in the area. This will determine whether this proportion is a 'significant concentration', the sub-text to this policy states that 10% or more of the above is a significant concentration.
9. At my site visit it was not possible to see how many properties were HMO's due to their visual appearance not being dissimilar to a dwellinghouse. However, the evidence before me indicates that there is a significant concentration of HMO's along the road and in neighbouring streets, and I have no reason to dispute this.
10. As the appeal property has an established use as a 4-bed HMO the proposal would not result in the loss of a family home. Therefore, the proposal would not affect the percentage of properties used as an HMO and would not unbalance the housing mix in the locality. Furthermore, having regard to the size of the property I have no evidence that the proposal would prevent the use of the property changing in the future to a family dwelling.
11. The appellant asserts that the proposal would not increase the occupants of the HMO. However, even if the proposed extension would provide for an additional occupant, on the basis that the existing property is an established HMO the limited increase in the number of occupants at the property would not result in a material change to the use of the property and would not unbalance the local community.
12. The proposal would not result in the loss of a family home or materially alter the housing mix in the area or. As such the balance and sustainability of the community would be maintained.

13. For the reasons given above, I conclude that the development would not harm the character and appearance of the area, in terms of the mix and balance of housing in the area. I therefore find no conflict with Policy 8 of the ACS and Policies H01 and H06 of the LAPP which seek to create mixed communities. Nor do I find conflict with the Framework, which seek, amongst other things, to create neighbourhoods of choice, ensuring development has regard to the character of the surrounding area and the size, type and tenure of housing need is considered.

Living conditions – neighbouring

14. The appeal site lies within a dense suburban setting. The occupiers of an HMO are likely to lead independent lives from one another. However, taking account of the size of the appeal proposal, the activity generated by one additional room would not lead to a marked and intensive level of activity over and above the existing HMO, even if the number of occupants were to increase.
15. I have limited evidence that the existing HMO has been the cause of complaints related to noise and disturbance. Moreover, this would relate to the behaviour of individuals and so carries limited weight.
16. I therefore conclude that the proposed development would not have an adverse effect on the living conditions of the occupiers of neighbouring properties. In this respect, there would be no conflict with Policies H06 and DE1 of the LAPP which, amongst others, seeks to ensure a that new development would not result in harm to the amenity of nearby residents or occupiers. Nor do I find conflict with the Framework which requires that developments provide a high standard of amenity for existing and future users.

Other Matters

17. The proposed extension would be positioned to the rear of the property and would be similar to that at No. 21 Claude Street in terms of size and design. The Council do not object to the visual character and appearance of the proposed extension. Based on the evidence before me I have no reason to disagree.
18. My attention has been drawn to a recent appeal decision¹ which the appellant submits supports the appeal proposal. I am not aware of the full circumstances that led to that decision and so cannot be sure that the main issues are the same as in the case before me. This decision therefore does not lead me to a different conclusion on the main issues in this appeal. In any event, I have assessed the appeal on its own merits.
19. My attention has been drawn to a recent High Court Judgement². Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development requires planning permission. However, if the appellant wishes to ascertain whether the development would be lawful, they may make an application under section 192 of the Town & Country Planning Act 1990.

¹ APP/Q3060/D/20/3257442

² [2022] EWHC 2051 (Admin) London Borough of Brent v SSLHC and Rothchild CO/3240/2021

Conclusion

20. The proposal would not be harmful to the character and appearance of the area in terms of the balance and mix of the community or to the living conditions of the neighbouring occupants. However, the proposal would be harmful to the living conditions of the existing occupants, with particular regard to light and outlook.
21. Having considered the proposal against the development plan as a whole, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR