



Appeal Decision

Site visit made on 10 October 2023

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/J3015/W/23/3318986

50 Salisbury Street, Beeston, Nottinghamshire NG9 2EQ

- 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 Khalid Mahmood against the decision of Broxtowe Borough Council.
- The application Ref 22/00999/FUL, dated 19 December 2022, was refused by notice dated 20 February 2023.
- The development proposed is change of use from C3 to C4.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted an amended plan with their appeal. This plan includes alterations to the parking and bin storage. I have considered the revised plan under the principles established by the Courts in *Holborn Studios Ltd*¹. Interested parties would not be aware of the amended scheme and, for that reason, I consider that they would be prejudiced if I determined this appeal on the basis of those plans. Accordingly, I have determined this appeal on the basis of the plans originally submitted with the planning application, on which the Council made its decision.
3. The submitted plans show a two-storey side extension to the property. This is not referenced on the application form or decision notice, and I note that it already has planning permission under Reference 21/00888. However, it is clear from the evidence that the extension would be necessary to facilitate the proposed change of use to a 5-bed House in Multiple Occupation (HMO). I have dealt with the appeal on the basis that the extension forms part of the scheme, notwithstanding its omission from the description of development.

Main Issue

4. The main issue is the effect of the proposal on the character of the area with particular regard to the number of Houses in Multiple Occupation (HMO) in the area and the living conditions of neighbouring occupiers.

Reasons

5. Salisbury Street lies within a predominantly residential area with mainly semi-detached dwellings set back from the highway behind low walls.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

6. The area is covered by an Article 4 Direction removing permitted development rights that allow a change of use from a dwellinghouse (Use Class C3) to a small HMO (Use Class C4). The Houses in Multiple Occupation Supplementary Planning Document (2022) (SPD) provides guidance regarding the determination of applications for HMOs within the Article 4 Direction area. The guidance in the SPD includes principles on clustering, stating that consideration will be given to the impact of more than 3 known HMOs on the same street or adjoining street or more than 2 known HMOs positioned opposite to 2 or more known consecutive HMO properties, as well as sandwiching, where a non-HMO dwelling would be sandwiched between 2 HMOs. It also considers the impact of the number of known HMOs within a radius of 100 metres from the application property exceeding 20% of the number of properties that fall within the radius.
7. The evidence before me, which is not challenged by the appellant, shows that the percentage of HMOs within a 100 metre radius of the appeal property is approximately 30% and that there are at least 23 HMOs on Salisbury Street and 4 on Pelham Crescent. If the appeal were allowed there would be 5 consecutive HMOs, which includes No 52, with 3 on the opposite side of the road. The proposal would be in clear conflict with the provisions of the SPD. Whilst this is guidance only, and does not have the status of policy, it attracts significant weight as a material consideration. The conflict with the SPD supports the argument that the proposal would exacerbate an existing imbalance of housing within this part of Salisbury Street to the detriment of the character of the area.
8. The over-concentration of HMOs would increase the potential for noise, anti-social behaviour and other adverse impacts identified in the SPD as being harmful to residential amenity. Although occupancy levels would be similar, I consider that the use of the property as an HMO would be likely to generate more activity and noise than if it was in use as a family home, as people would be living independently and possibly coming and going at different times of the day and night.
9. I conclude that the proposed change of use from Use Class C3 to C4 would harm the character of the area with particular regard to the number of HMOs in the area and the living conditions of neighbouring occupiers. It would conflict with Policies 8 and 10 of the Greater Nottingham: Broxtowe Borough, Gedling Borough and Nottingham City Aligned Core Strategies Part 1 Local Plan (2014) and Policy 17 of the Broxtowe Borough Council's Part 2 Local Plan (2019) which amongst other matters seek to ensure that development maintains a mix of housing types, contributes to a sense of place and creates a safe and inclusive environment. It would also conflict with the guidance in the SPD and the aims of section 12 of the National Planning Policy Framework (the Framework).

Other Matters

10. I have had regard to the personal circumstances of the appellant and the difficulties around removing the previous tenant. I also note that the dwelling was previously in use as an HMO. Unfortunately, it was not in use as an HMO when the Article 4 Direction came into force on 26 March 2022, necessitating the need for a planning application. Whilst I am sympathetic to the appellants circumstances, they do not outweigh the harm I have found to the character of the area and living conditions of nearby occupiers arising from an overconcentration of HMO's.

11. I note the recent appeal decision for 65 Pelham Crescent. In this case, the Inspector did not have evidence of a radius map before them, or any evidence of clustering or sandwiching. It is not therefore directly comparable to the current appeal and in any event, I have determined the appeal on the site-specific circumstances of the case.
12. I have taken the representations of support into account as a material consideration but that they do not outweigh the identified harm resulting from an over-concentration of HMOs.
13. It is put to me that licensing would deal with poor management issues. However, this is a separate control regime and there can be no guarantee that it would be effective in preventing noise, disturbance or anti-social behaviour by the tenants of an HMO at the appeal site.
14. I acknowledge that No 52 is already a licensed HMO and therefore the use of the appeal property as an HMO could not harm the living conditions of the occupiers of a dwellinghouse on this side. However, there are other dwellings in the vicinity, including No 48 beyond the entrance to Pelham Crescent and several of the properties on the opposite side of Salisbury Street. The residents of these family homes could be adversely affected by a clustering of HMOs in the vicinity, even though they do not share a boundary with the site.
15. The submitted plans do not demonstrate compliance with the relevant parking standards for HMOs which require one space per bedroom. However, the Council has chosen not to make this matter a reason for refusal and there would have been scope to impose a condition to secure on-site parking in the event of planning permission being granted.
16. The SPD recognises that HMOs are a significant part of the housing mix within Broxtowe Borough and that they play an important role for providing accommodation to a range of individuals, including through the provision of flexible rental accommodation. This is consistent with the aims of the Framework and is a benefit of the scheme attracting moderate weight. It does not, however, outweigh the harm I have found to the character of the area.
17. Whilst the SPD does not identify locations for student accommodation in Broxtowe, it is relevant to the consideration of proposals for HMOs within the Article 4 area, where the appeal site lies.

Conclusion

18. The proposal conflicts with the development plan as a whole and there are no other considerations that outweigh this conflict. I therefore conclude that the appeal should be dismissed.

H Senior

INSPECTOR