



Appeal Decision

Site visit made on 23 January 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/Q3060/W/23/3325961

8 The Ropewalk, Nottingham NG1 5DT

- 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 Harry Warren against the decision of Nottingham City Council.
 - The application Ref 22/02344/PFUL3, dated 24 November 2022, was refused by notice dated 5 June 2023.
 - The development proposed is change of use from 3 bedroom flat (C3 use) to 3 bedroom flat (C4 use) within existing building @ Flat 1, 8 The Ropewalk, Nottingham, NG1 5DT.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above is taken from the application form. However, it is apparent from the plans and the Council's decision that the proposal relates to Flat 1, within 8 The Ropewalk. I have considered the proposal accordingly.
3. When visiting the site, I saw that the internal layout has already been altered to create the third bedroom. I have dealt with the appeal on a retrospective basis. However, this has no bearing on my decision.
4. A revised National Planning Policy Framework (the Framework) came into force on the 19 December 2023 with a further change published on 20 December. The revised Framework is a material consideration which should be taken into account from the day of publication. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

5. The main issues are:
 - The suitability of the proposed development, having regard to the development plan's approach to the provision of Houses in Multiple Occupation (HMOs);
 - Whether the proposed development would provide appropriate living conditions for the existing and future occupiers of the properties, with regard to internal living space; and

- The effect of the proposal on the living conditions of neighbouring occupiers, with regard to noise, disturbance, property upkeep and parking.

Reasons

Suitability of development

6. The appeal site is Flat 1 within 8 The Ropewalk. The building, as a whole, is a detached building within a street of other large, detached buildings. From the evidence before me it was previously converted from offices to nine flats.
7. Policy HO6 of the Nottingham City Land and Planning Policies, Development Plan Document, Local Plan Part 2, adopted January 2020 (LAPP) supports the provision of HMOs, providing they do not conflict with Policies HO1 and HO2 of the LAPP and do not undermine local objectives to maintain sustainable, inclusive, and mixed communities. In considering this latter point, part 2 of Policy HO6 provides a number of criteria against which a proposal would be assessed. The criteria include, amongst other matters, consideration of the existing proportion of HMOs in the area and whether this amounts to a 'significant concentration.'
8. Paragraph 4.59 of the supporting text of HO6 defines a 'significant concentration' as 10%. The Council's evidence indicates that the site is within an area where there is already 19% HMO use, and the appellant has not sought to challenge this evidence. Albeit in the city centre, where both policy HO1 and HO2 promote the provision of flats and where student accommodation would be expected, the area is already suffering from a significant concentration of HMOs.
9. Although the existing building already provides small flats and the proposal would provide an additional bedroom within one of the flats and, thereby, adding to the existing mix of house sizes within the building and within the City Centre, the proposal to convert the flat to an HMO would affect the mix of housing tenures in the area and add to the existing significant concentration, to the detriment of the overall mix in the area.
10. I also acknowledge that the appeal site, and the other flats within 8 The Ropewalk, are occupied by students. However, I do not have any substantive evidence before me that the flats have consent to be occupied as HMOs. The appeal before me proposes a change of use to an HMO and I have to consider it on its own merits.
11. Paragraph 4.62 of Policy HO6 does provide an exception to the general approach of refusing consent for HMOs in areas of significant concentration and requires the submission of supporting information to satisfy Part 2 of HO6.
12. The appellant asserts that the appeal property would not be attractive to families due to, amongst other matters, the lack of private, outdoor, green space, the proximity to the city centre and the presence of other more suitable accommodation.
13. That the outdoor space is shared and wholly hard surfaced would not mean that the appeal site is not suitable as a C3 use, or even for family accommodation. It is not uncommon for flats to have shared outdoor space, especially within city centres and where the flats are provided through conversion of buildings where the outdoor space may be limited. Moreover, a

small flat can be occupied by a single person or small family who do not require private, green outdoor space.

14. The appeal proposal does not demonstrate that the property is no longer suitable for family accommodation as required by criteria f) of Part 2 of Policy HO2. Furthermore, this criterion also prefers replacement of family accommodation with a new C3 dwellinghouse unless one of the other criteria is satisfied.
15. Criterion c) advises that local evidence of housing need and demand can be used to indicate that an alternative mix of housing is appropriate. The appellant has drawn my attention to an article¹ which advised of a student housing shortfall of 5,500 bedspaces. However, this article relates to the provision of purpose-built student accommodation (PBSA) and also confirms that the Council is confident it will avoid a student housing crisis. Notwithstanding whether there is a need for additional PBSA across the city the article does not sufficiently demonstrate that a mix with more than 10% HMOs would be appropriate.
16. The cumulative effect of HMOs in the area has already altered the housing mix and has adversely affected the ability of the area to maintain a sustainable, inclusive, and mixed community as required by Policies HO1 and HO2 of the LAPP.
17. For the above reasons, I find that the proposal would not be suitable development, having regard to the development plan's approach to the provision of HMOs and the mix of housing tenures within the area. The proposal would, therefore, be contrary to Policy 8 of the Greater Nottingham, Broxtowe Borough, Gedling Borough, Nottingham City, Aligned Core Strategies Part 1 Local Plan, adopted September 2014 (ACS).
18. For the same reasons, the proposal would be contrary to Policies HO1, HO2 and HO6 of the LAPP which, taken together, seek to diversify the existing housing stock, resist the loss of C3 uses to C4 use to encourage the provision of sustainable, inclusive, and mixed communities and resist HMOs where the existing proportion of HMOs in the area would amount to a significant concentration.

Living conditions of existing and future occupiers

19. Policy 8 of the ACS requires all development to contain adequate internal living space and the Council contend that the development would fall below the Nationally Described Space Standards (NDSS).
20. The proposal is for a three-bedroom flat for three-person occupation. The NDSS does not provide a minimum figure for a three-bedroom, three-person flat. However, the proposal would exceed the minimum floorspace required for a three-bedroom, four-person flat. Each of the bedrooms exceed the bedroom sizes in the NDSS, with one room large enough to provide a double bedroom. The NDSS does not advise on the minimum size for shared living rooms and kitchens and overall, the proposal would not fall below the minimums set out within the NDSS.

¹ Appellant's appendix A

21. From my visit I noted that the shared living and kitchen had a sofa, a large coffee table, TV stand with TV and the kitchen as shown on the submitted plans. Although there was no dining table within the room the existing furniture was large and did not feel overly cramped in the room. Moreover, the submitted floor plans show space for a seating area, dining table and kitchen within this room which, in my judgement, would provide suitable and appropriate living conditions for the future occupiers.
22. For the above reasons, the proposed development would provide appropriate living conditions for the existing and future occupiers of the properties, with regard to internal living space and would, therefore, accord with the requirements of Policy 8 of the ACS and Policy DE1 of the LAPP which both seek to ensure a satisfactory level of living conditions for the occupiers of the development.

Living conditions of neighbouring properties

23. There would be some increase in activity resulting from the addition of one extra bedroom and from the proposed change of use. However, as a detached building, the disturbance would be predominately to the occupiers of the other flats within 8 The Ropewalk. Furthermore, as the building already contains nine flats there is already a level of activity, noise and disturbance from the occupiers and visitors.
24. There is no substantive evidence before me to show that the addition of one extra bedroom, even if occupied by students, would significantly increase the risk of noise or disturbance to occupiers of nearby properties, including the occupiers of the other flats within 8 The Ropewalk. In my judgement, the potential occupancy of the three-bedroom flat would not be significantly different to the level of occupancy of the two-bedroom flat, even if the existing occupation were as a single-family unit and the proposal was for students. I am not persuaded that any difference in the level of comings and goings between the existing two-bedroom flat and the proposed three-bedroom flat would be significant enough to adversely affect the living conditions of the occupants of neighbouring properties, including the other flats within 8 The Ropewalk.
25. To the rear of property is a large parking area, which is accessed through a keypad-controlled gate. For the nine flats within the building, the parking area is sufficient to provide more than one space per flat and is in accordance with Appendix A of the LAPP which requires one space per dwelling. Although I have not been provided with the parking requirements for HMOs, for the size of HMO proposed the parking pressure is not likely to be substantially different to a C3 use.
26. On-street parking outside the site is restricted to card holders or chargeable between the hours of 08:00 and 22:00. Moreover, the site is within the City Centre, close to services and facilities and close to public transport. The development would encourage sustainable modes of travel in line with Policy TR1 of the LAPP. The addition of one extra room to one of the flats would not be likely to increase parking demand or traffic to a significant degree so as to result in severe highway impact or be prejudicial to conditions of highway safety as required by Policy TR1 of the LAPP.
27. The maintenance of the property and waste collection facilities would remain the responsibility of the property owner and manager and I have no reason to

doubt that the property would not be well kept. Furthermore, I have no substantive evidence that the proposed development would increase anti-social behaviour.

28. For the above reasons, the proposal would not have an adverse effect on the living conditions of neighbouring occupiers, with regard to noise, disturbance, property upkeep and parking and would, therefore, comply with Policy 10 of the ACS which requires development to consider the effect on the living conditions of nearby residents and occupiers.
29. For the same reasons, the development would not conflict with Policies DE1, TR2 or IN2 which, taken together, seek to provide a satisfactory level of living conditions for occupiers of neighbouring properties, ensure that development proposals would not result in noise or vibration at such levels as are likely to adversely affect health or quality of life, and seek to ensure appropriate parking provision.

Other Matters

30. The appeal site is located within the Park Conservation Area (the Park CA) and on the edge of the Canning Circus Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The historic integrity and architecture of the Park Conservation Area contributes positively to the character and appearance of the area, as a whole, and as such also to its significance as a designated heritage asset. Bearing in mind that no external alterations are proposed to the building the character and appearance of the Park CA as a whole would be preserved. I note that the Council raised no objection in this regard either. Nevertheless, this lack of harm weighs neutrally and does not alter my overall conclusions on the main issues.

Conclusion

31. Notwithstanding my conclusions on the living conditions of the future occupiers of the property and the living conditions of neighbouring occupiers the proposal would not be appropriate development, having regard to the development plan's approach to the provision of HMOs and would adversely affect the housing mix within the area. This harm is in conflict with the development plan as a whole. Moreover, there are no material considerations that indicate that the decision should be made other than in accordance with the development plan.
32. For the reasons given above I conclude that the appeal should be dismissed.

K Townsend

INSPECTOR