



Appeal Decision

Site visit made on 5 March 2024 by Tom Bennett BA(Hons) MSc MRTPI

Decision by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2024

Appeal Ref: APP/J3015/W/23/3331102

3 Willoughby Street, Beeston, Nottinghamshire NG9 2LT

- 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 Alison Dudley c/o Zenith Planning and Design against the decision of Broxtowe Borough Council.
 - The application Ref is 23/00293/FUL.
 - The development proposed is for change of use from Use Class C3 to an HMO within Use Class C4.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from Use Class C3 to an HMO within Use Class C4 at 3 Willoughby Street, Beeston, Nottinghamshire NG9 2LT in accordance with the terms of the application, Ref 23/00293/FUL, subject to the following 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 following approved plans: Site Location Plan & Proposed Floor Plan.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Background and Main Issues

3. The proposed change of use would grant permission for a 3 bed House in Multiple Occupation (HMO). This type of change of use is normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 without the need for planning permission. However, to ensure there is not an over-concentration of HMOs the Council has introduced an Article 4 Direction to remove this permitted development right. The Direction covers the area where the appeal site is located.
4. The main issues are the effect of the proposed change of use on:
 - the mix and balance of housing in the area, and;
 - the living conditions of the neighbouring occupiers at 5 Willoughby Street (No 5)

Reasons for the Recommendation

Mix and Balance of Housing

5. The site relates to a semi-detached property located in a primarily residential area on the corner of Willoughby Street and Portland Street.
6. Policy 8 of the Greater Nottingham: Broxtowe Borough, Gedling Borough and Nottingham City Aligned Core Strategies Part 1 Local Plan (ACS) (September 2014), amongst other matters, seeks to ensure that residential development facilitates a mix of housing tenures to create mixed and balanced communities. This recognises that the increased numbers of student accommodation and HMOs has altered the residential profile of some neighbourhoods, leading to unsustainable communities and associated amenity issues.
7. The HMO Supplementary Planning Document (SPD) (July 2022) provides guidance to ensure that the aims of Policy 8 of the ACS are met and there is not an over-concentration of HMOs within the Article 4 Direction area. It sets out that 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% of properties within a 100 metre radius of the property; and (iv) a dwelling positioned in between two known HMOs either adjacently or to the front and rear.
8. From the evidence before me, the change of use would result in less than 15% of the dwellings within 100 metres of the site as known HMOs. This is comfortably below the 20% HMO threshold (consideration iii). The Article 4 HMO map, submitted by the Council, shows only 2 adjacent HMOs on Portland Street and none fronting Willoughby Street. Therefore, the change of use would not result in clustering or sandwiching (considerations i, ii, and iv).
9. Consequently, there would be no conflict with the SPD. Whilst the SPD does not have the status of policy, it nevertheless attracts significant weight as a material consideration. Compliance with the SPD supports the notion that the proposal would not be detrimental to the mix and balance of housing in the area and would not detrimentally imbalance the residential profile. Accordingly, the change of use from C3 to C4 would comply with Policy 8 of the ACS. It would also comply with the overarching aims of Section 12 of the Framework, which seeks to achieve well-designed and beautiful places.

Living Conditions

10. The Council has provided no substantive evidence why the change of use would result in a significant direct and cumulative impact on the amenity of the occupiers of No 5, over and above the existing use. Additionally, the Council has not specified which potential amenity factors they consider would be harmed.
11. It is recognised in the SPD that an over-concentration of HMOs may increase noise and anti-social behaviour, which may be harmful to residential amenity. An increase of one bedroom may lead to some additional comings and goings compared to a single-family dwelling. However, these are likely to be minimal, and compliance with the SPD makes it unlikely that the proposal, either individually or cumulatively, would be detrimental to the living conditions of the

neighbouring occupiers. This is because the SPD seeks to address, prevent and mitigate the impact on amenity.

12. Therefore, the proposal would have an acceptable impact on the living conditions of the occupiers at No 5. This would accord with Policy 10 of the ACS and Policy 17 of the Broxtowe Borough Council's Part 2 Local Plan (October 2019) which broadly require that proposals ensure a satisfactory degree of amenity for neighbouring properties.

Conditions

13. A condition is necessary to ensure compliance with the approved plans. The Council have suggested that permitted development rights are removed in relation to extensions or enlargements to the property. The Framework states there must be clear justification for the removal of permitted development rights, but no substantive justification has been put forward. Thus, it would not be necessary or reasonable.

Conclusion and Recommendation

14. For the reasons given above, I recommend that the appeal should be allowed.

Tom Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

Katie McDonald

INSPECTOR