
Appeal Decision

Site visit made on 15 May 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 JUNE 2024

Appeal Ref: APP/J3015/W/23/3333772

22 Pelham Crescent, Beeston, Nottinghamshire NG9 2ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kereem Badi against the decision of Broxtowe Borough Council.
 - The application Ref is 23/00421/FUL.
 - The development proposed is change of use from C3 dwelling to C4 - 4 bed HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The revised National Planning Policy Framework (Framework) was published in December 2023. In this case it does not raise any matters that require me to seek further representations from the parties and I am satisfied that no interests have been prejudiced in this regard.

Main Issues

3. The main issues are the effect of the proposed development on the character of the area, with particular regard to the balance and mix of housing; and the effect of the proposal on the living conditions of the neighbouring occupiers, with regard to noise and disturbance.

Reasons

Character of the area

4. 22 Pelham Crescent is a two-storey semi-detached house situated within a residential street of similar properties which are in use as dwellinghouses and Houses in Multiple Occupation (HMO). Properties are set back from the road with small gardens and driveways to the front. The area is covered by an Article 4 Direction removing permitted development rights that allow a change of use from a dwellinghouse to a small HMO (Class C3 to Class C4).
5. The Council's 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 aim of the SPD is to avoid over-concentrations of HMOs in terms of clustering and sandwiching, and it also considers the impact of the number of HMOs within a radius of 100m of the application property exceeding 20% of the total number of properties. Whilst the SPD is guidance only and does not have the status of policy, it nevertheless attracts significant weight as a material consideration.

6. The use of the appeal property as a small HMO would not result in, or add to, a row of more than three consecutive HMOs on the same street or adjoining street, or more than two known consecutive HMOs positioned opposite to two or more known HMO properties. Therefore, the proposal would not amount to clustering as set out in the SPD. Although the properties on either side of the site are not used as HMOs, it is positioned between two existing HMOs to the front and rear, namely 33 Pelham Crescent on the opposite side of the road and 70 Salisbury Street at the rear. Consequently, the proposal would result in a sandwiching effect, which the SPD identifies can intensify impacts on individual households even if few HMOs exist locally and can create an imbalance between HMOs and other housing at a street level.
7. Moreover, the Council's evidence, including the radius map provided, indicates that as a result of the appeal proposal the percentage of HMOs within a 100m radius of the appeal property would be 38% of the total number of properties. I have no reason to doubt the accuracy of this figure which I note has not been disputed by the appellant. It suggests that the proposal would exacerbate a situation where there is already an over-concentration of HMOs within the vicinity of the site. As a result, the proposal would create an imbalance in the mix of residential units in the area and erode its character.
8. For the above reasons, I conclude that the proposal would have a harmful effect on the character of the area with particular regard to the balance and mix of housing. Accordingly, the proposal would conflict with Policies 8 and 10 of the Aligned Core Strategies Part 1 Local Plan (CS), Policy 17 of the Part 2 Local Plan (LP) and the SPD which, amongst other things, seek to ensure balanced communities and enhance local identity. It would also be contrary to the aims of Chapter 12 of the Framework.

Living conditions

9. While the proposal would create an additional bedroom within the property, it is unlikely that the number of occupiers would significantly increase. However, it is likely that the occupiers of the HMO would lead independent lives with their own daily routines, as well as having their own visitors and deliveries. This would generate more comings and goings and general activity than would be expected for a typical family dwelling and therefore have the potential to result in noise and disturbance that would be detrimental to residents within this part of Pelham Crescent. Noise and disturbance would be most apparent to the occupiers of the neighbouring properties on either side, 20 and 24 Pelham Crescent, which have a particularly close relationship to the site.
10. I conclude that the development proposed would have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. The proposal would fail to comply 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

11. I note that the site edged red on the location plan incorrectly identifies 18 Pelham Crescent as the appeal site rather than No 22. However, it is clear from the remainder of the appeal documents, including the application and appeal forms and floor layouts, that the proposal relates to No 22. Therefore, I am satisfied no parties' interests have been prejudiced by this matter.

12. I have had regard to the personal circumstances of the appellant. In particular, I note their suggestion that the property has been used previously as student accommodation and that the works associated with the proposed HMO were commenced and substantially complete prior to the Article 4 Direction taking effect on 26 March 2022. Within the context of an appeal under Section 78 of the Act, it is not within my remit to formally determine whether the development requires planning permission. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 191 of the Act. Therefore, I give limited weight to this matter.
13. The SPD recognises that HMOs are a significant part of the housing mix within the Borough and that they play an important role in providing accommodation to a range of individuals. I acknowledge that the property is conveniently situated for Nottingham University students, and future occupiers would contribute to the local economy. I also note the improvements to the property that are being considered by the appellant. However, these matters do not individually or cumulatively outweigh the harm I have identified.
14. I have considered the concerns of interested parties about a lack of parking. However, as I have found the proposal to be unacceptable for the reasons given, it has not been necessary for me to consider this matter further.

Conclusion

15. The proposal does not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I therefore conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR