



Appeal Decision

Site visit made on 8 July 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2024

Appeal Ref: APP/Q3060/W/24/3339612

237 - 239 Denman Street Central, Nottingham NG7 3PS

- 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 Herbajan Singh against the decision of Nottingham City Council.
 - The application Ref is 23/01526/PFUL3.
 - The development proposed is for a three-storey rear extension and conversion of 2 existing dwellings to 4 self-contained 2-bedroom duplex apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form gives the address as 237 Denman Street Central. However, I have used the address given on the appeal form and the Council's decision notice which is more accurate.

Main Issues

3. The main issues are:
 - the effect of the proposal on the provision of family housing in the area having regard to the creation of a balanced and sustainable community;
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise and disturbance, outlook and light; and
 - whether the proposal would provide adequate living conditions for occupiers of the proposed dwellings with particular regard to the suitability of pedestrian access.

Reasons

Housing Mix

4. Numbers 237 and 239 Denman Street Central (No 237 and No 239) are adjoining mid-terraced, three-storey dwellings. Buildings on this part of Denman Street Central are mainly in residential use, including the dwelling adjoining No 237 at 235 Denman Street Central (No 235). A commercial unit at ground floor level with residential accommodation on the upper floors adjoins No 239 at 243 - 245 Denman Street Central (No 243). The rear garden of

No 76 Radford Boulevard and a public car park share the rear boundary with No 237 and No 239.

5. Policy HO2 of the Nottingham City, Land and Planning Policies, Development Plan Document, Local Plan Part 2 (2020) (LAPP), informs that there is a shortage of homes throughout the city which are suitable and attractive to families. It states that there is a presumption against the loss of dwellinghouses suitable and attractive for family occupation through sub-division unless it meets one of a number of exceptions including local evidence of housing need and demand indicates that an alternative mix of housing is appropriate or if an applicant can demonstrate the properties are no longer suitable for family occupation.
6. The Council suggests that there is a significant concentration of houses of multiple occupation (HMOs) in the area. It was evident on my site visit that some of buildings in the area are used as flats as opposed to dwellinghouses. Furthermore, no detailed evidence of housing need and demand or details of local market conditions have been provided to suggest that there is no longer a shortage of family homes and that the appeal dwellings could not be afforded by a family.
7. The existing plans show that each existing dwelling contains a lounge /dining room, kitchen and 5 bedrooms, albeit one of the bedrooms in each of the dwellings is at ground floor level and could be alternatively used as additional living room space. In my view, whilst reference has been made to the existing use of the dwellings as houses in multiple occupation, the size and layout of each existing dwelling is suitable for family occupation. Whilst the outdoor amenity space to the rear of these properties consists of a small yard area, it still provides an area of outdoor amenity space with sufficient space to hang washing out or to sit outdoors. From my site visit, the buildings appeared in sound condition and could be renovated just as would be the case if they were subdivided. For these reasons, I find that the existing dwellings are suitable for family occupation.
8. The rear extension and loft conversion would increase the floorspace of the buildings and directly result in the loss of part of the outdoor amenity space. This would proportionately decrease the amount of outdoor amenity space available for the likely increase in the proposed number of occupiers. Furthermore, the increased intensification of use of the buildings through its subdivision into smaller units would result in the remaining amenity space being used primarily as a communal bin storage and pedestrian access area, including the main access to the two upper floor apartments. Whilst there might be public parks nearby, this would not offer a suitable replacement for a more private amenity space adjacent to a dwelling that would appeal to families. Furthermore, access to these apartments via steps would not be suited to families with children in prams.
9. The appellant has drawn my attention to part of Policy H01 of the LAPP which states that on sites within the city centre of Nottingham, the mix of housing should address the need to diversity existing housing stock and may include flats of two or more bedrooms. However, the Council's officer report is limited to reference to Policy H01 insofar as it encourages the development of sites for family housing outside the city centre. I have no evidence before me to suggest that the site is located within the city centre. Even if it is, I

acknowledge that the proposal would result in renovation of the buildings and the proposed dwellings might appeal to first time buyers or young professionals. However, this does not overcome my fundamental concern that the proposed development would not meet any of the exceptions set out in Policy H02 of the LAPP and result in dwellings that are less desirable for families, in an area where there is an identified shortage of dwellinghouses suitable for family occupation.

10. I conclude that the proposal would result in the loss of family housing and would prejudice the creation of a balanced and sustainable community. This would conflict with Policy 8 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan (2014) (ACS) and Policy H02 of the LAPP which places an emphasis on protecting dwellinghouses suitable for family occupation.

Living Conditions of Neighbouring Occupiers

11. No 243 is a three-storey building with an existing two-storey rear extension. Windows are located in the rear elevation of No 243 flush with the rear elevation of the appeal site and to the side of the extension. Whilst noting the ground floor of this building appears to be in commercial use, I have no evidence before me to suggest that the first and second floor windows in this building do not serve habitable rooms. The view from the second-floor window nearest to the appeal site is relatively open and spacious with views over the top of the extension. The existing outlook from the nearest first-floor window is somewhat restricted by the extension which means it has a more limited aspect over the rear yards of dwellings fronting Radford Boulevard and over the single storey projection at No 237 towards the adjoining yard area and car park beyond. The ground floor windows and outdoor amenity space serving No 243, are enclosed by existing boundary treatments and walls of buildings.
12. It is clear from the proposed site block plan that the three-storey rear extension would be set away from the appeal site's side boundaries. However, the height and projection of the proposed extension would result in an enclosing impact upon the first-floor window to the rear of No 243 as brick walls would dominate the outlook from this window on both sides. In the absence of any evidence to the contrary, this would also likely block light serving this room. The outlook from the second-floor window would also be restricted, albeit to a lesser extent. Even so, taken together, the outlook from the upper floor windows of No 243 would be unacceptably compromised and an overbearing and overshadowing effects upon the living conditions of occupiers of No 235 would likely occur.
13. In relation to No 235, the set back of its two-storey rear elevation from the rear elevation of No 237, combined with the position of the existing single storey projection to the rear of No 239 would screen views of the proposal from both its rear windows and outdoor amenity area, including from any windows at ground floor level. As such, I am satisfied that the proposed extension would not result in any material overbearing or overshadowing effects upon the living conditions of occupiers of No 235.
14. The proposed kitchen and living room areas serving the duplex apartments would be located at ground and loft floor level. Given similar rooms are already located at ground floor level, the lower level of No 235 and lack of rooflights in No 243 which means there are likely to be no habitable rooms at loft level in

these adjoining dwellings, noise and disturbance issues emanating from the use of kitchen and living rooms through internal walls access would be unlikely.

15. There would be a small increase in comings and goings to the site as a result of the proposal. However, this increase would be slight and any noise and disturbance issues would unlikely be discernible over and above existing levels given the large number of existing comings and goings associated with the urban environment within which the appeal site is located.
16. Whilst I have found no harm in relation to the effect of the proposal on the living conditions of neighbouring occupiers with regard to noise and disturbance or upon the outlook and light to No 235, this does not overcome the unacceptable effects I have identified in relation to the effect on outlook and loss of light for the occupiers of No 243.
17. I conclude that the proposal would have a harmful effect on the living conditions of the neighbouring occupiers at No 243 with particular regard to outlook and light. This would be conflict with Policy DE1 of the LAPP which require new development to provide a satisfactory level of amenity for occupiers of neighbouring properties.

Living Conditions of Occupiers of the Proposed Dwellings

18. Pedestrian access to two of the apartments would be accessed via the existing front door, whilst the access to the other two apartments would be to the rear, either via an existing path from Radford Boulevard or via the proposed new pedestrian access through the public car park. The path from Radford Boulevard is narrow, unlit and lacks surveillance. Whilst the route from the public car park would be more open, it would be a convoluted route away from the public highway and to the rear of dwellings. Consequently, both routes likely feel very secluded particularly in the dark and would not provide a suitably legible, safe or convenient access to the apartments.
19. I conclude that the proposal would not provide adequate living conditions for occupiers of the proposed dwellings with particular regard to the suitability of pedestrian access. This would conflict with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP which require new development to provide a satisfactory level of amenity for occupiers of the development and to make provision for safe, convenient and inclusive pedestrian access.

Other Matters

20. The appellant raises concerns about favourable pre-application advice received from the Council and their alleged handling and lack of engagement in relation to a subsequently withdrawn planning application. Regardless, the Council is not bound by the informal comments made at pre-application stage, nor am I. Whilst noting the appellant's frustration in this regard, I have determined the appeal based on the plans and evidence before me in accordance with the development plan.
21. The dwellings may provide lower cost properties for the local community and provide employment during building works. However, the extent of these benefits is limited given the small-scale nature of the proposals. In any event, such matters would not be sufficient to outweigh the harm identified.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR