
Appeal Decision

Site visit made on 6 September 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/Q3060/W/24/3342841

7 Willoughby Street, Nottingham, NG7 1SP

- 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 Awais Shah against the decision of Nottingham City Council.
- The application Ref is 23/01408/PFUL3.
- The development is for an existing 3 bedroom house within the city to change from 'a dwelling house' (Use Class C3) to a 'House in Multiple Occupation' (Use Class C4) without any structural works, and apply for a dual use to allow the property to be either single dwelling (C3) or small HMO (C4) interchangeably without needing further permission. Currently the house is tenanted to 3 individuals whilst for some lengths of time in the future it is viable 2 or 3 individuals occupy the house.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that the use of the appeal property as a House in Multiple Occupation (HMO), rented to three unrelated people, commenced in August 2021.
3. Planning permission is sought to enable the appeal property to be occupied as either a family home or a small HMO. This type of change of use normally benefits from deemed consent under the Town and Country Planning (General Permitted Development) (England) Order 2015. However, to address the over-concentration of HMOs, the council has removed this permitted development right in some areas, including the area where the appeal property is located.

Main Issues

4. The main issues are the effect of the development on the mix and balance of housing in the area, and its effect on the living conditions of occupiers of nearby dwellings with regard to noise and disturbance, property upkeep, waste disposal and parking.

Reasons

Mix and balance of housing

5. The development plan for the area comprises the Greater Nottingham Aligned Core Strategies (ACS) adopted in 2014 and the Nottingham City Land and Planning Policies Development Plan Document Local Plan Part 2 (LAPP) adopted in 2020.

6. Policy 8 of the ACS outlines the general approach to residential development and seeks an appropriate mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. Within the city, there is an emphasis on providing family housing. The appropriate mix of housing is to be informed by, amongst other things, the need to redress the housing mix within areas of concentration of student households and Houses in Multiple Occupation. Policies HO1 and HO2 of the LAPP also support the provision and retention of family housing in the city, and Policy HO6 only supports HMOs where these would not conflict with the primary focus of Policies HO1 and HO2, or undermine local objectives to create or maintain sustainable, inclusive and mixed communities.
7. The justification to these policies defines a significant concentration of HMOs as 10% or greater. Family housing is defined as likely to be of no more than three storeys, have private enclosed gardens, and have three or more bedrooms, two of which are capable of double occupancy.
8. The appeal property is a two-storey, three-bedroom, end terrace house with an enclosed private garden to the rear, and resident permit parking to the front. It is in a predominantly residential area close to a school, church, leisure centre and local shops. As such it is ideal for families.
9. I am advised that recent data indicates that approximately 53.8% of households within the 'core output area' are HMOs catering for the student market. I have not been provided with a copy of this evidence or advised of what the 'core output area' is. However, the appellant's own evidence includes a plan, obtained from the council, identifying properties with HMO licences within 50 metres of the site. Whilst I appreciate that few of these relate to properties on Willoughby Street itself, there is clearly a high concentration of HMOs in nearby surrounding streets, which by far exceeds 10% of the properties shown.
10. I therefore conclude that the change of use would result in the loss of a further family home in an area that already has a high concentration of HMOs. This would be detrimental to the mix and balance of housing in the local community and would therefore fail to accord with Policy 8 of the ACS and Policies HO1, HO2 and HO6 of the LAPP, the aims of which are set out above.

Living conditions

11. HMOs are used differently to single family dwellings with occupants living separately whilst sharing common areas such as the kitchen and communal living spaces. This can sometimes result in greater comings and goings than that of a single-family household. Notwithstanding that the property has allegedly been occupied by five students, planning permission is sought for occupancy by up to three people. This could be controlled by planning conditions and licencing, albeit I accept that this may be difficult to enforce and would not prevent occupiers from having frequent visitors staying over, which would further intensify the use. This could however be the case with any home.
12. The activity generated by up to three occupiers, even if these were students, would not significantly increase the risk of noise or disturbance to occupiers of nearby properties over and above that of a family home. Whilst I acknowledge that a neighbour has experienced some disturbance in the past from students having friends over, sitting outdoors and playing music, there

is no evidence before me of any anti-social behaviour complaints. Furthermore, the behaviour of individuals carries limited weight and poor behaviour can be experienced from any type of property.

13. At the time of my visit the property appeared tidy and well maintained. Its future maintenance would remain the responsibility of the owner and manager, and I have no reason to doubt that the property would be well kept. I also see no reason why three occupiers of a HMO would generate a greater level of waste than that of a family household.
14. I noted that there is a car parking area to the front of the site as well as on street parking on Willoughby Road. This parking is limited to two hours at some times, except for those with resident permits. Given the proximity of the site to local services and facilities, occupiers would not necessarily all need a car. I am also mindful of the fact that a three bedroom family home occupied by adults and older children could generate the same parking demands as a small HMO.
15. I therefore conclude that based upon the evidence before me the change of use would not have an adverse effect on the living conditions of the occupiers of neighbouring properties with regard to noise, disturbance, property upkeep, waste disposal and parking. It would, therefore, comply with Policy 10 of the ACS and Policies DE1, HO6, TR2 and IN2, in so far as they seek to ensure development proposals would not result in noise at such levels that are likely to adversely affect health or quality of life, and would have appropriate waste disposal facilities and parking provision.

Other Matters

16. I acknowledge the intention to provide quality accommodation for working professionals, families, or mixed households and I have no reason to doubt the owners experience and qualifications for successfully managing such properties and dealing with any potential problems that may arise. However, that does not address the conflict in policy that would occur from allowing the flexible use of a family house as a HMO in an area where there is already a high concentration of such uses. I also acknowledge that similar applications have been allowed in this area, although in this case that is part of the problem, and the relevant policies justify why it is necessary to limit the concentration of HMOs in one area. Granting planning permission for new purpose-built student accommodation does not result in, and assists in alleviating, the loss of existing family housing. Such development is not therefore directly comparable to the change of use before me.
17. Whilst the use may be of benefit to those seeking HMO accommodation in the area, that would not outweigh the loss of family housing.

Conclusion

18. The small HMO use would not be harmful to the living conditions of occupiers of nearby dwellings. However, having regard to the existing concentration of HMOs in the area, the loss of another family house would fail to support the provision and retention of a balanced and mixed community. The proposal therefore conflicts with the development plan as a whole and consequently the appeal is dismissed.

R Bartlett
INSPECTOR