



Appeal Decision

Site visit made on 3 September 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Appeal Ref: APP/Q3060/W/24/3345170

12 Western Boulevard, Nottingham NG8 1PG

- 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 Zilfiqar Ali against the decision of Nottingham City Council.
 - The application Ref is 24/00022/PFUL3.
 - The development proposed is use of annexe as self-contained dwelling in association with use of main dwelling as HMO.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council's Decision Notice refers to the lack of parking facilities in both the reasons for refusal. To avoid duplication, I have addressed this matter in the first main issue. The main issues are:
 - whether the proposal would provide acceptable living conditions for future occupiers of the annexe with regard to access, internal space, private outdoor space, parking facilities, outlook and light; and
 - the effect of the proposal on the living conditions of neighbouring occupiers with regard to noise and disturbance and privacy.

Reasons

3. The appeal relates to a two-storey end of terrace property located adjacent to a wide dual carriageway within a predominantly residential area in Nottingham. There is an annexe in the rear garden of the site which contains two bedrooms, an open plan kitchen/ living area and a bathroom. The annexe was granted planning permission¹ with a condition that it could not be occupied as a separate dwelling and should only be used for purposes ancillary to the residential use of the dwelling known as 12 Western Boulevard (No 12). The annexe is currently unoccupied. No 12 was granted a Certificate of Lawfulness for Use Class C4 house in multiple occupation (HMO)². The appeal proposal seeks to use the annexe as a self-contained two bedroom dwelling. The annexe would be managed in association with the main building of No 12.

¹ 9/00965/PFUL3

² 23/01865/PCLE

Living Conditions for Future Occupiers

4. The appellant's statement indicates that the annexe would be accessed through No 12 (referred to as the main building in this decision letter). This means that future occupants of the annexe would have to enter the main building and go through its lounge, kitchen and garden to access the annexe. This would severely compromise the privacy of occupiers of the main building and would not provide convenient or suitable access to the annexe for its future occupants.
5. At 50 sq m. the appellant accepts that the annexe falls below the Nationally Described Space Standards (NDSS) for a self-contained single storey dwelling with two bedrooms. The appellant suggests that as the annexe would be used as temporary accommodation for asylum seekers, this would provide suitable accommodation compared to other types of temporary accommodation such as hostels or hotels. However, all residential development, according to Policy DE1 of Nottingham City Land and Planning Policies Development Plan Document Local Plan Part 2 (January 2020) (the LAPP) is required to meet the NDSS.
6. The proposal does not include any private outdoor amenity space in association with the proposed use of the annexe as a self-contained dwelling. The appellant suggests that the garden of the main building could be shared as the whole appeal site would be managed by the same company. However, this would not provide private external space to the future occupiers of the annexe as required Policy DE2 of the LAPP. Even if the garden could be subdivided so that the annexe could have its own private garden space, it would likely be unsuitable given that the garden could only be accessed through the main building.
7. The Application Form indicates that there are three existing car parking spaces on the appeal site and that no additional spaces would be created. The submitted plans do not show details of the parking layout or arrangements. My site visit confirmed that there is drive to the front of the property that could potentially accommodate three parking spaces. The existing drive is partially bound by a brick wall to the front with an access point to the south. It would not be possible to park three cars perpendicular to the dwelling and would therefore rely on co-ordination between the occupiers of the site to move cars in and out of the driveway to fit them all in.
8. The Council's car parking standard for Use Class C3 dwellings is 1.5 spaces per dwelling. The parking standard for Use Class C4 HMOs is unclear from the evidence before me. While the annexe would only effectively require one space, the potential for the HMO to be occupied by up to six individual people would increase the demand for parking in the area. I acknowledge that the site is in a location accessible by public transport and the Council's parking standards are maximums not minimums. However, I am not satisfied that the proposal demonstrates that a sufficient amount of parking would be provided. I note the appellant's comment that the residents of the appeal site would not be car owners. However, there is no substantive evidence before as to the car ownership levels of future occupants, and in any event, the car ownership of future occupiers cannot be controlled.
9. The Officer Report suggests that the outlook from one of the bedrooms in the annexe is restricted by a garden fence situated to the rear of the site. However, the annexe sits on a higher ground level than properties to the rear

of the site in Marchwood Close, so I find that the outlook from the bedroom windows would not be unduly restricted. The Officer Report also indicates that a dense hedge to the rear of the site restricts light ingress to the bedrooms. However, at the time of my site visit the vegetation was not so dense as to limit light into the bedrooms.

10. For the reasons above, although I find no harm in respect of outlook and light, the proposal would not provide acceptable living conditions with regard to access, internal space, private outdoor space and parking facilities. Accordingly, it would conflict with Policies DE1, DE2 and TR1 of the LAPP. Together, these policies, amongst other things, require proposals to provide safe and convenient access into buildings, meet the NDSS, provide appropriate private external space and an appropriate level of parking provision.
11. The Council's Decision Notice refers to Policy 10 of the of the Broxtowe Borough, Gedling Borough, Nottingham City Aligned Core Strategies Part 1 Local Plan (September 2014) (the ACS) and Policy IN2 of the LAPP. However, these policies relate to the design of new development, land contamination, instability and pollution, so are not determinative on this main issue.

Living Conditions of Neighbouring Occupiers

12. The appellant's statement indicates that the annexe would be occupied by two adults and two children while the main building is occupied as a HMO by four people. The appellant's opinion is that this would not significantly intensify the use of the site compared to if the main building was still a family dwelling with the potential for it to be occupied by five persons, with two further adults in the annexe. However, occupation of the annexe by an additional household would inevitably comprise a more intensive use of the appeal site compared to that of a single family, which would have greater potential for shared activities and journeys. As a result, the increased activity, which can often involve more people and car movements, would give rise to an increase of noise and disturbance.
13. There is a distance of approximately 10 metres between the facing rear habitable ground floor windows of the main building and the front elevation of the annexe, and 11.5 m between the rear first floor windows of the main building and the front elevation of the annexe. The windows to the living room and kitchen area of the annexe would look directly into the garden and ground floor windows of the main building. The appellant acknowledges that the level of privacy would be compromised for the residents of the main building and the future occupants of the annexe by the closeness of the two buildings with facing windows at ground floor level but contends that this should be assessed in the context of the proposal as short term accommodation for persons who would otherwise be housed in hostels or hotels or other temporary accommodation, and the management of the whole site as one unit. However, there is no indication of how long occupants would reside at the property, which could include lengthy periods of time. Even if residences were short-term, it would not mitigate for the severe harm that would be caused to the privacy of the occupiers of the main building and future occupants of the annexe.
14. Contrary to the appeal statement, the bedroom windows to the annexe are not high level or obscurely glazed, as observed during my site visit. They are located approximately one metre from the floor level and have clear glass

panes. The bedroom windows overlook the gardens of 9 and 11 Marchwood Close (Nos 9 and 11) which is exacerbated by the higher ground level of the appeal site and close proximity of the annexe to the shared boundaries with those properties, thus harming the privacy of the occupiers of Nos 9 and 11.

15. For these reasons, I conclude that the proposal would significantly harm the living conditions of neighbouring occupiers with regard to noise and disturbance and privacy. Consequently, this would conflict with Policies DE1 and DE2 of the LAPP insofar as they require development to provide satisfactory levels of amenity for occupiers of neighbouring properties, taking into account privacy and noise and disturbance.
16. The Council's Decision Notice refers to Policy 10 the ACS and Policies DE2 and IN2 of the LAPP. However, these policies respectively relate to the design of new development, context and place-making, land contamination, instability and pollution, so are not determinative on this main issue.

Other Matters

17. The appellant indicates that the occupation of the main building and the annexe would be linked and suggests that future use of the annexe could be controlled by either granting planning permission for use as temporary accommodation only and/or by restricting occupation to persons being housed by SERCO in association with the occupation of the main building. However, I can only determine the appeal on the basis of the proposal before me which is for a self-contained dwelling. Furthermore, a condition restricting occupation of the property to persons housed by a specific company would not meet the tests contained in paragraph 56 of the Framework, particularly with regard to enforceability.

Planning Balance and Conclusion

18. The appellant refers to the national and local shortage of temporary accommodation as a consideration that should be given some weight. However, there is no substantive evidence before me in relation to this matter, therefore, I can only give this limited weight. Notwithstanding this, the proposal contains significant defects which weigh heavily against the scheme. It would not provide acceptable living conditions for future occupiers and would significantly harm the living conditions of neighbouring occupiers. This leads me to an overall conclusion that the appeal proposal would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of significant weight against the grant of planning permission that outweigh the limited benefits identified.
19. 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.

U P Han

INSPECTOR