
Appeal Decision

Site visit made on 1 October 2024

by Dr Rachael A Bust BSc (Hons) MA MSc LLM PhD MIOl MCMi FGS MEnvSci MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2024

Appeal Ref: APP/Q3060/W/24/3347719

13 Colville Street, The Arboretum, Nottingham, NG1 4HQ

- 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 G Shoker against the decision of Nottingham City Council.
 - The application Ref is 24/00503/PFUL3.
 - The development proposed is the change of use to 2 self-contained flats and external alterations including single storey rear extension, external staircase and new windows.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the housing mix within the local area with particular regard to family accommodation.

Reasons

3. 13 Colville Street is a two-storey, 6-bedroom, general L-shaped Victorian dwelling within an established residential area of the Arboretum Conservation Area. It occupies a corner position with enclosed garden space and off-street parking.
4. Policy 8 of the Nottingham City Aligned Core Strategy Part 1 Local Plan (ACS) places an emphasis on providing family housing, including larger family housing. This is followed through into Policies HO1 and HO2 of the Nottingham City Local Plan Part 2 - Land and Planning Policies DPD (LAPP). Policy HO2 sets out a clear presumption against the loss of dwellings suitable for family occupation, with supporting text explaining that the Council is seeking to secure more family housing, particularly larger family homes.
5. The Council's definition of family housing is contained in paragraph 4.12 of the LAPP. It identifies that 'family housing' is likely to be of no more than three storeys, have private enclosed gardens, and have three or more bedrooms, two at least of which are capable of double occupancy. This is supplemented by a definition of 'larger family housing', which will have four or more bedrooms in addition to the characteristics described as contained within family housing.
6. In policy terms the appeal property currently constitutes 'larger family housing.' The appeal proposal seeks to sub-divide the existing two-storey dwelling into 2 self-contained 3-bedroom flats, with one flat per floor. Whilst there is no dispute that each flat would contain 2 bedrooms which would be capable of double occupancy, this is not the only consideration in the Council's definition of family housing.
7. To fully comply with the Council's definition of family housing there is also an expectation that there would be private enclosed gardens which I consider to be a particularly

necessary feature for family housing. The appeal proposal indicates a shared garden area for both the flats. A shared garden is not the same as a private garden in my view. As such, in my judgement, the appeal proposal does not comply with the Council's definition of family housing in the LAPP.

8. Moreover, even if the garden area were to be subdivided, the first-floor flat occupiers would have no direct access into the garden area. The modest size windows in bedroom 1 and the living room would offer limited oversight for the garden area which would be particularly important given the corner position. For the occupiers of the first floor flat their access would be via the external staircase, through the rear yard into the alleyway out onto the street and then through the parking area and finally into the amenity space. I find this arrangement to be inconvenient and unsuitable, particularly for children, which would be reasonably anticipated to be within a family unit, therefore it would not be usable or effective for family occupation.
9. The appellant suggests that the area has changed over the past 80 years with properties having already been sub-divided into flats, hostels and more recently to student housing and houses in multiple occupation. Specific reference has been made to other properties in the local area which are no longer single family dwellings. However, as no further details of these properties have been submitted to indicate their lawful planning history, it limits the weight that I can give them in making my decision on this appeal.
10. Even if a number of properties within the local area are no longer single family dwellings, then in terms of ensuring a housing mix which provides for different tenures, types and sizes, it would suggest to me that this would weigh against the appeal proposal. Retaining the appeal property as a larger family house would assist with ensuring a housing mix for sustainable, inclusive and mixed communities.
11. The appellant's submission of data from the 2021 Census demonstrates that there has been some change in the housing mix from that data which was available to inform the ACS. The number of 3-bedroom dwellings has increased from 30% to 44% which is now just over the average of 40% for England. The position in relation to larger family dwellings with 4+ bedrooms has only marginally increased from 12% to 13% and remains significantly below the average for England of 21%. The 2021 Census data demonstrates that the development plan policies have, so far, been effective in securing family housing particularly with 3-bedrooms, but not as effective in relation to the larger family homes. The 2021 Census data does not, in my opinion, undermine the established policy approach for the housing mix.
12. Although the appellant claims that there is limited demand for a larger family dwelling, there is no supporting evidence to substantiate this point. The appeal property is currently rented to a family. As such this does show that there is a need for family sized property, even if as the appellant indicates there is a degree of under occupation of the appeal property. Consequently, this in itself does not justify the loss of a larger family dwelling and it does not meet any of the exceptions contained within Policy HO2 of the LAPP.
13. The Council has cited a recent appeal decision¹ relating to the appeal property. I have not been provided with a copy of the appeal decision or details of the scheme. However, from the comments of the main parties in this appeal I note that it was for change of use to a house in multiple occupation which is a different proposal to that which is before me. As each case is determined on its own merits that is what I have done.

¹ APP/Q3060/W/22/3291900, dated 9 June 2022.

14. In my experience, once family dwellings, and in particular larger family dwellings such as the appeal property, are lost from the housing mix through sub-division they tend to be unlikely to return into single family use, particularly when internal alterations include the removal of the original staircase.
15. I find that the appeal proposal would harm the housing mix within the local area with particular regard to family accommodation. As such there would be conflict with Policy 8 of the ACS which seeks to maintain, provide and contribute to a mix of housing tenures, types and sizes. There would also be conflict with Policies HO1 and HO2 of the LAPP which, respectively, seek to provide and retain family sized dwellings within the housing mix to create and maintain sustainable, inclusive and mixed communities.

Other Matters

16. The appeal property is located within the Arboretum Conservation Area (ACA). The ACA is a designated heritage asset and encompasses the Arboretum as a large Victorian public park area, two educational establishments and a range of Victorian housing in two general blocks. The appeal property is a large attractive Victorian dwelling which has retained its external fabric and architectural detailing. The traditional timber sash windows have been replaced with a simple uPVC design. Some changes to openings have been undertaken in the past, however, these are only visible within the rear yard of the appeal property. The enclosed garden space is larger than average for many properties in the local area and contains a substantial and prominent mature tree. As such, overall, I find that the appeal property makes a positive contribution to the character and appearance of the ACA.
17. The appeal proposal includes some external alterations. An external staircase and single storey extension would be contained within the enclosed rear part of the appeal site. Whilst there would be very limited visibility from the public realm, the occupiers of some of the properties on Tudor Grove would see these alterations. The modest sized additional windows proposed would be of a similar design to the existing. Overall, the finer details of these external alterations could be managed through suitable planning conditions if all other aspects of the proposal were acceptable. As such, I find that the external alterations would have a neutral effect on the ACA as a whole. Consequently, in accordance with the statutory duty contained in s72 of the Planning (Conservation Areas and Listed Buildings) Act 1990, it would preserve the character or appearance of the Conservation Area. I note that the Nottingham Civic Society has raised no concerns in this regard. In relation to the external alterations there would be no conflict with Policies 10 and 11 of the ACS and Policies DE1, DE2 and HE1 of the LAPP. However, this does not overcome the conflict identified earlier.

Conclusion

18. Overall, for the reasons given above, the proposal would conflict with the development plan when taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

Dr Rachael A Bust

INSPECTOR