



Appeal Decision

Site visit made on 2 October 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

Appeal Ref: APP/Q3060/W/24/3347175

46 Wollaton Road, Nottingham, NG8 1FE

- 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 Arv Soar against the decision of Nottingham City Council.
- The application reference is 24/00524/PFUL3.
- The development proposed is a change of use from Class C4 HMO to sui-generis HMO and the erection of single-storey rear extension.

Decision

1. The appeal is allowed and planning permission is granted for a change of use from Class C4 HMO to sui-generis HMO and the erection of single-storey rear extension at 46 Wollaton Road, Nottingham NG8 1FE in accordance with the terms of the application, reference 24/00524/PFUL3, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - Location & Site Plans (Drawing WR-24-P01, March 2024)
 - Existing and Proposed Plans (Drawing WR-24-P02revB, March 2024)
 - 3) Prior to the first occupation of the development hereby approved, details of proposals for the storage of refuse and recycling shall be submitted to and approved in writing by the local planning authority.
The facilities as approved shall be provided in full prior to occupation of the development, and shall thereafter be permanently retained and maintained in accordance with the approved details.

Procedural Matters

2. The “existing ground floor plan” submitted with the planning application a ground floor room of the appeal property currently used as a bedroom was wrongly shown as a lounge. The Council’s officer report therefore described the property as having three bedrooms, when in fact it has four. During the appeal the appellant submitted a revised plan correcting that error.
3. In deciding whether to accept the revised plan I have had regard to the judgment of the High Court in *Holborn Studios*¹ (which refined the long-standing and well-understood “Wheatcroft Principle”²). In this case, the amended plan does not alter the fundamental nature of the scheme or its impacts. It also does not appear to have altered the Council’s stance on the

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

² *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

proposal; I am conscious that, although it had the opportunity to comment on this matter during the appeal, it chose not to do so. I am satisfied that there would be no procedural unfairness arising from my determining the appeal having regard to the amended plan, and I have proceeded on that basis.

Main Issues

4. The main issues are:

- Whether the proposed change of use to a larger House in Multiple Occupation ("HMO") would accord with development plan policies which seek to promote a balanced and sustainable community in the local area; and
- The effect of the proposed development on living conditions for neighbouring occupiers and amenity in the wider area, with particular regard to noise and other disturbance, the storage and collection of refuse, and demand for on-street car parking.

Reasons

Balanced community

5. The appeal relates to a detached two-storey building which is currently occupied as a Class C4 HMO with four bedrooms. A Lawful Development Certificate ("LDC") for the C4 use was issued in March 2023, though it has in fact been an HMO since at least 1998. It has three bedrooms (plus a smaller "box room") on the first floor; on the ground floor there is a kitchen, a lounge/dining room, and a fourth bedroom. It sits on a relatively large plot, with a pair of garage/storage outbuildings to the rear. The wider area is predominantly residential.
6. The proposed development is the change of use of the property from a C4 HMO to a larger sui generis HMO, along with a proposed single storey rear extension. The extension would provide five additional bedrooms, all with ensuite facilities. The first floor of the existing building would be reconfigured by enlarging the box room, converting it to a further bedroom. The property would thus be expanded from four bedrooms to ten; it would be aimed, as now, at the student market.
7. Policy 8 of the 2014 Aligned Core Strategies Part 1 Local Plan ("the ACS") sets out the general approach to residential development within the city of Nottingham and the neighbouring boroughs of Broxtowe and Gedling. Among other things, it emphasises the need to create sustainable, inclusive and mixed communities. Policy HO6 of the Council's 2020 Land and Planning Policies Development Plan Document ("the LAPP") sets out the approach to dealing with proposals for HMOs and purpose-built student accommodation in Nottingham.
8. Part 1 of Policy HO6 says that planning permission for HMOs will only be granted where it does not conflict with Policies HO1 and HO2 of the LAPP. Policy HO1 states that the Council will encourage development of sites for family housing, including larger family housing (within use class C3), as opposed to other forms of residential accommodation. Policy HO2 seeks to prevent the loss of dwellinghouses within use class C3 suitable for family occupation to sub-division or to other uses. There is no substantive evidence before me to suggest that, in the event of this development not going ahead,

there is a realistic prospect of the appeal property becoming available for family housing. As the property is already used as an HMO within use class C4, the proposed development would not result in the loss of a family dwellinghouse. There would therefore be no conflict with these provisions of Policy HO6.

9. Part 2 of Policy HO6 goes on to set out further matters to be taken into account when assessing the impact of proposals for HMOs and student housing. One of these is whether there is already a “significant concentration” of those uses in the area, recognising that this can sometimes undermine the maintenance of balanced and sustainable communities. Applying the methodology for assessing this set out in Appendix 6 of the LAPP, the Council considers that the surrounding area has a high concentration of students and HMOs, noting that “the average for the core and surrounding output areas is 31.8%”, which “well exceeds the indicative threshold of 10% which is considered to be reasonable in achieving a balanced community”.
10. Notwithstanding the appellant’s evidence that there are very few HMOs in the particular output area including the appeal site (the “home output area”, in the terminology of the LAPP), there are multiple blocks of purpose-built student accommodation in the output areas immediately to the north-east and south of the site. There is no dispute that, in the terms set out in Policy HO6, the area as a whole is one with a high concentration of students.
11. Other criteria in Part 2 of Policy HO6 relate to the characteristics of the particular site, and the combined impact of existing HMOs and the proposed development on the character of the local area, residential amenity, and matters such as car and cycle parking. Given the issues raised by the Council in refusing planning permission, I address these points as part of the next main issue.
12. As the proposed change of use would lead to the expansion of HMO provision in an area which already has a significant concentration of HMOs and student housing, it would conflict with Policy 8 of the ACS and Policy HO6 of the LAPP which seek to promote a balanced and sustainable community in the local area. However, the appeal property is already in use as a Class C4 HMO, and the proposal would not lead to the loss of either Class C3 family housing or a site which might otherwise become available for that use. As a result of these factors, I consider that the harm arising from this conflict would, on its own, not be significant. Whether the proposal as a whole is acceptable will therefore be dependent on my assessment of the second main issue.

Living conditions and amenity

13. The supporting text to Policy HO6 of the LAPP sets out a list of impacts which it considers can occur as a result of high concentrations of HMOs. In terms of potential adverse impacts on living conditions or the amenity of the area, the Council has specifically referred to noise and disturbance, property upkeep, waste disposal, and on-street parking, though there is no documentary evidence of problems in any of those respects arising from the existing use of the appeal property as a smaller HMO within the C4 use class. The Council also referred to a high turnover of occupants, and the absence of residents outside term times, which it considered would not be compatible with the use of the appeal property.

14. The appeal site is a large plot by the standards of the area, and very large relative to the size of the existing building. Given the generally densely-built nature of nearby residential development, the proposed development would not represent the overdevelopment or an unacceptable intensification of the site. Wollaton Road is a busy arterial route with, I observed during my visit, a generally high level of background noise; while the number of residents of the property would increase from four to ten as a result of the proposed change of use and extension, and there would therefore be more comings and goings, I would expect that such additional noise as this might generate would, in the normal run of things, blend into the hubbub of everyday activity along the road. While it is not a determinative factor, I note also that there were no objections to proposed development on these grounds from neighbouring residents.
15. The front forecourt of the appeal property has space for parking at least two, and possibly three, cars. I accept that some future occupiers may need or choose to own a car, but the property's location very close to the Jubilee Campus of Nottingham University, with a variety of shops, bars and other services nearby (including a short distance away on Ilkeston Road), and with a bus stop immediately outside offering regular buses into the city centre from early in the morning late into the evening seven days a week, is likely to discourage this. Although it does not form part of the appeal scheme, there would be room within the appeal site for additional parking spaces to be created if the need arose; the presence of parking restrictions on Wollaton Road (and a residents' permit zone in the side streets off it) would limit the impact of the proposed development on on-street parking in the area.
16. While the proposed development would also increase the amount of refuse which would be created and which would need to be stored, the size of the appeal site is such that there would be sufficient space for additional bins. The submitted drawings, whether by design or by accidental omission, do not include details of where these would be stored for collection; however, this is a matter which I am satisfied can be dealt with by a condition requiring the submission of this information before the enlarged property is occupied.
17. The question of "property upkeep" raised by the Council is vague; it does not appear to be directly related to the size of an HMO, and is a matter which, to the extent that it needs to be, can be addressed through the Council's HMO licencing regime. Although general HMOs may lead to a high turnover of occupants, housing aimed specifically at the student market is often let for a year at a time, as appears to be the case with the appeal property currently, rather than there being a succession of overlapping residents. The possible absence of residents outside term time would not be significantly different for a larger HMO than for a C4 HMO; if anything, the increased number of occupiers may also increase the chance of one or more remaining in residence during university holidays. None of these apparent concerns justifies my dismissing the appeal.
18. Taking all of this together, I am satisfied that the proposed development would not have an unacceptable adverse impact on living conditions for neighbouring occupiers or amenity in the wider area. There would therefore be no conflict with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP which together, among other things, seeks to ensure that development does not have a harmful impact on the amenity of nearby residents or occupiers. There would

also be no conflict with those parts of Policy HO6 of the LAPP which relate to amenity and other impacts on the wider area, with Policy TR1 in respect of parking provision, nor with Policy IN1 in respect of noise disturbance.

Planning Balance

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
20. I have found that the proposed development would not comply with the provisions of the development plan which seek to prevent the development of HMOs or student housing in areas which already have a high concentration of those uses. However, I have also found that the proposed development would not lead to a loss of existing or likely future family housing, nor would it cause significant harm to neighbours' living conditions or to amenity in the area.
21. The additional six residents living in the appeal property as a result of the proposal would be unlikely to have any significant impact on the residential mix within, or the sustainability of, the wider neighbourhood. While I acknowledge the Council's concern that similar extensions to other HMOs would result in a cumulative impact, my conclusion here has been informed by specific characteristics of the appeal site and its location which may very well not apply in other ostensibly similar cases. These other material considerations indicate that a decision other than in accordance with the development plan is appropriate. I will therefore allow the appeal.

Conditions

22. In addition to the standard time limit condition (1), I have specified the approved plans so as to provide certainty (2). For the reasons I have set out in paragraph 16 above, a condition relating to the storage of refuse and recycling (3) is also necessary.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be allowed and planning permission granted.

M Cryan

Inspector