



Appeal Decision

Site visit made on 22 October 2024

by Dr Rachael A Bust BSc (Hons) MA MSc LL.M PhD MIOl MCMI FGS MIEEnvSci MRTPI
an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/Q3060/W/24/3348947

116 Radford Boulevard, Radford, Nottingham NG7 3BN

- 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 Kousar Abbas against the decision of Nottingham City Council.
 - The application Ref is 23/01742/PFUL3.
 - The development proposed was originally described as "change of use is 5 bed to 7 bed."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council changed the description of development as stated in the application form and as set out in the banner heading above. The revised description is for the "change of use from a 5 bed HMO to a 7 bed HMO (sui generis) and provision of a fire escape at the rear" and was used by the Council in advertising the application for the statutory consultation. There is no submitted evidence to confirm that the applicant agreed with this change. However, the appellant has used this revised description in the appeal form. The revised description more accurately defines the scheme seeking planning permission and I have therefore determined the appeal on this basis.
3. A revised plan has been included within the appeal submission. It is an established principle in the Procedural Guide – Planning Appeals – England¹ that the appeal process should not be used to evolve a scheme. There are two separate tests arising from case law² which are considered when any revised plans are submitted, namely, a substantive test and a procedural test. In this case, the revised plan (Dwg ref AR-C-0015) contains an amended set of elevations that match the "as built" extensions together with a revised design for the proposed external staircase.
4. Firstly, the illustration of the dormer roof extension more accurately reflects what has been built and I do not find that the change in staircase design is significant enough for it to represent a fundamental or substantive difference to that which was considered by the Council, and which was subject to public consultation. Secondly, the presence of a staircase is common to both

¹ Planning Inspectorate Guidance – Procedural Guide – Planning Appeals – England

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin) which refined the long-standing principles established in *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

schemes and all plans are available on the Council's online planning register. As such anyone wishing to comment on the revised plan have had an opportunity to do so. Accordingly, I have determined this appeal on the basis of the submitted plans including the revised plan.

5. Planning permission was granted in April 2023 for ground and first floor extensions and a loft conversion with rear dormer. The application form and my site visit confirmed that elements of this consent had been commenced. However, any discrepancy between what the Council previously approved and the 'as built' form is a matter to be resolved outside of this appeal. The purpose of this appeal is to determine the proposal which was refused planning permission.

Main Issues

6. The main issues in this appeal are the effect of the development on:
 - i. the character and appearance of the property; and
 - ii. the living conditions of the neighbouring and surrounding occupiers and the balanced and mixed community.

Reasons

Character and appearance

7. The appeal property is a 3-storey mid-terrace villa style dwelling within the wide tree lined boulevard. The original building materials and architectural features are still present giving an insight into the area's history. The character and appearance of the area is predominantly residential.
8. An external staircase has been proposed to provide a means of fire escape from the roof space accommodation. From my site visit, it was apparent that none of the surrounding properties within the section of the terrace containing the appeal property had external staircases present. The proposed straight design of staircase in the original plan would lead to an overly dominant external structure of a height, scale, mass and proportion that would harm the character of the appeal property.
9. The proposed external staircase has been re-designed in the revised plan. The staircase would turn in on itself to be a more compact structure and would be located more centrally in the rear elevation. Whilst this revised design would be a marginal improvement in comparison to the original design, it would still be of a height, scale, mass and proportion that, in my judgement would harm the character of the appeal property.
10. The presence of the large dormer roof extension is already a very visually dominant feature which is not common within the terraced group of dwellings. As such it represents a diminution in the existing settled character of the terrace. Consequently, the presence of an external staircase would introduce an inappropriate and incongruous harmful feature. The large dormer extension is already visible in public views from surrounding streets and the addition of a proposed external staircase would further compound the harm to the established character and appearance of appeal property within this part of Radford Boulevard.

11. Accordingly, the proposal conflicts with Policy 10 of the Nottingham Aligned Core Strategy (ACS) which seeks all new development to be designed to make a positive contribution and enhance local identity. It would also be contrary to Policies DE1 and DE2 of the Nottingham Local Plan Part 2 – Land and Planning Policies (LAPP). These policies seek, amongst other things, that development should respect and enhance the townscape and character of the area and context.

Living conditions and the community

12. The use of a proposed external staircase (of either design) by the potential occupiers (and their visitors) of the roof space accommodation would lead to overlooking and therefore an unacceptable loss of privacy for the neighbouring occupiers, particularly 114 Radford Boulevard and 2-6 Warner Street, who are entitled to a peaceful enjoyment of their properties. Notwithstanding the intention of the external staircase being a fire escape, the revised design incorporates landings that may encourage their use as external terraces or balconies.
13. It is common ground that the appeal property is located within an area which already contains a significant concentration of Houses in Multiple Occupation (HMO). The figure submitted to the appeal is that some 49.9% of properties are occupied by students and/or as HMOs. This exceeds the 10% threshold contained within the adopted development plan.
14. There is no dispute that the appeal property is already in use as a 5-bedroom HMO as indicated in the Council's Officer Report and appellant's appeal submission. The appeal proposes an increase in the number of bedrooms to 7. Whilst I note the Council's concerns about the concentration of HMOs, as the property is already an HMO this type of housing accommodation would not change if the appeal were allowed.
15. Policy HO6 of the LAPP identifies potential for extensions and alterations to existing HMOs that facilitate an increase in the number of bedrooms to potentially impact on the provision of mixed and balanced communities. However, the purpose of the policy is predominantly focussed on upon the protection of family housing under Policies HO1 and HO2 of the LAPP. The appeal property has previously changed from a family house to an HMO so in this regard I do not share the Council's concerns. Increasing the number of bedrooms could result in a greater level of impacts contained within Policy HO6.
16. In relation to potential impacts, concerns have been raised regarding refuse, condition of properties within the area and effect on car parking. However, at the time of my site visit, although a snapshot in time, there was no evidence of uncontained refuse within the general area. Whilst some properties needed some general cosmetic maintenance, I have no evidence of whether they were HMOs or single-family dwellings. No specific number of car parking space standards required or parking survey indicating that the area is suffering from parking stress have been submitted. During my site visit on street parking opportunities were available. In this case, the Council's concerns are generalised, rather than specific to the effects of additional bedrooms.

17. In conclusion on this second main issue, I find that the use of the external staircase would harm the living conditions of the neighbouring and surrounding occupiers. It would be contrary to Policy 10 of the ACS and Policies DE1, HO6 2d) and IN2 of the LAPP. These policies collectively seek, amongst other things, a satisfactory level of amenity for the area and surrounding residents. Whilst I have not found harm in the principle of increasing the number of bedrooms from 5 to 7 on the neighbouring and surrounding occupiers or housing balance of the community, this does not overcome the harm I have identified.

Conclusion

18. For the reasons given above the appeal should be dismissed.

Dr Rachael A Bust

INSPECTOR