



Appeal Decision

Site visit made on 17 March 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2025

Appeal Ref: APP/Q3060/W/24/3356453

25 Colwick Road, Nottingham NG2 4AL

- 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 Mrs and Mr Cheng against the decision of Nottingham City Council.
 - The application Ref is 24/01489/PFUL3.
 - The development proposed is the change of use from take away restaurant to Sui-Generis HMO - 7 bedrooms with 8 occupants, including loft conversion with dormer window to rear elevation.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from take away restaurant to Sui-Generis HMO - 7 bedrooms with 8 occupants, including loft conversion with dormer window to rear elevation at 25 Colwick Road, Nottingham NG2 4AL in accordance with the terms of the application, Ref 24/01489/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 drawings: Location Plan, 03-001 Rev B, 03-002 Rev B, 03-003 Rev B and 03-004 Rev B.
 - 3) The external brick to be used in the in-filling of the shopfront shall match those used in the existing building.
 - 4) The development hereby permitted shall not be occupied until an enclosed bin store has been sited at the rear of the property. The bin store shall be retained thereafter.

Preliminary Matter

2. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as the parts most relevant to the main issue in this appeal have not substantially changed, I have not gone back to the parties to seek further submissions. I consider no party has been prejudiced by this approach.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the availability of housing suitable for family accommodation; and,
 - the living conditions of neighbouring occupiers.

Reasons

Family housing

4. Policy 8 of the Nottingham Aligned Core Strategy Part 1 Local Plan (2014) (ACS) sets out that residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes to create sustainable, inclusive and mixed communities. It goes on to state that there should be an emphasis on providing family housing within the city. 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 (HMO).
5. Policy HO1 of the Nottingham City Land and Planning Policies Development Plan Document Local Plan Part 2 (2020) (LAPP) also supports the provision and retention of family housing in the city. The supporting text of the policy defines family housing 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.
6. The Council state that the area has approximately 5.9% HMOs and student properties. However, this falls below the 10% threshold upon which the area is then deemed to have a significant concentration of HMO's or student properties.
7. Notwithstanding the above, the appeal property is a three storey, mid-terraced property with the ground floor currently a take-away. It is located in a predominantly residential area, served by a range of local services and facilities. The property would have seven bedrooms, with at least two capable of providing double occupancy. However, the property only has a very small rear yard. This is dominated by a metal fire escape and refuse storage, leaving almost no space to undertake any form of typical domestic activities such as hanging washing or sitting out. Therefore, I do not consider this to represent a private, enclosed garden which would be suitable for a large family, particularly ones with children. In coming to this view, my attention has been drawn by the appellant to other appeals on Colwick Road where my colleagues took a similar view. Consequently, considering the property as a whole, I do not consider it would meet the definition of family housing as set out in Policy HO1 of the LAPP.
8. In conclusion, for the reasons above, I find that the change of use would not have an adverse effect on the availability of housing suitable for family accommodation. It would therefore not be contrary to Policy 8 of the ACS or Policy HO1 of the LAPP.

Living conditions

9. The Council has concerns that the proposed HMO and associated intensification of use could result in harm to the living conditions of neighbouring occupiers in terms of noise, disturbance, on-street parking, waste disposal, high turnover of occupiers and, if occupied by students, an absence of residents outside of term time.
10. The character of a family dwelling can be markedly different from that of a HMO. Unrelated adults, which could be students, are more likely to have individual daily schedules, deliveries and visitors and less likely to undertake activities together than a family. As such, the use of the property as a HMO would be likely to

generate more activity and associated noise than if it was in use as a family home. However, the property currently comprises a take-away on the ground floor with a two-bedroom flat located over the floors above.

11. The existing take-away use would likely generate some noise from the comings and goings of customers, including car doors closing, car engines starting and customers walking to and from the premises. When compared to the existing use, I am not persuaded that the overall comings and goings from the occupiers of the proposed HMO would create a harmful increase in noise and disturbance.
12. While off-street parking is not provided, on-street parking is available. Although an interested party has raised concerns about parking availability, I have no substantive evidence before me to indicate that parking is an issue in the area. 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 inspection, I observed that whilst the road was busy, and although only a snapshot in time, there appeared to be parking opportunities available. I am also mindful that the appeal site is in a very accessible location, close to services and facilities, with a bus stop in close proximity to the appeal property. Therefore, not all occupiers would necessarily require a car. From my observations and the evidence before me, I do not consider there would be a significant adverse effect on parking demand.
13. In relation to waste disposal, I am satisfied that details around refuse provision and storage can be dealt with by a suitably worded condition.
14. The appellant has indicated that there is demand for HMOs in the area by students and young professionals. I acknowledge that where there are high numbers of properties vacant out of term time this can have a negative effect on the character of the area, which in turn, could adversely affect living conditions of neighbouring residents. However, there is no certainty that the entire property would be let out to students. If young professionals were residing there, they would be unlikely to be absent for extended periods of time. Notwithstanding this, the evidence submitted by the Council indicates that there is not an over-concentration of HMOs or student properties in the area, this would suggest that there is not a significant issue with empty properties outside of term time in the locality.
15. Taking the above points together, I conclude that it has not been demonstrated that the change of use would have an adverse effect on the living conditions of neighbouring occupiers. Accordingly, there is no conflict with Policy 10 of the ACS or Policies DE1, DE2, HO6, IN2 and TR1 of the LAPP which collectively seek to ensure development does not have an adverse effect on the amenities of neighbouring properties, that noise does not adversely impact on the quality of life and that proposals provide appropriate parking provision.

Conditions

16. The Council has suggested conditions which I have considered, making amendments, where necessary, to ensure clarity and compliance with the tests contained within the Planning Practice Guidance.
17. In addition to the standard time limit condition, I have imposed a condition specifying the relevant plans for certainty. To ensure no adverse impact on the character and appearance of the property and area, a condition specifying

matching brickwork is necessary. In the interests of visual amenity and to ensure no adverse impact on the living conditions of neighbouring occupiers, a condition is required to ensure a satisfactory enclosure for the bins is provided.

18. The Council requested a condition for cycle storage, however considering the constraints of the appeal site, the condition would not be feasible. As such I have not imposed the condition.

Conclusion

19. For the reasons given above the appeal should be allowed.

T Bennett

INSPECTOR