



Appeal Decisions

Site visit made on 29 April 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 June 2025

Appeal A Ref: APP/Q3060/C/24/3341682

48 Manston Mews, Nottingham NG7 3QZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mrs Anne Hazard against an enforcement notice ("EN") issued by Nottingham City Council.
 - The EN was issued on 12 March 2024.
 - The breach of planning control as alleged in the EN is "*Without planning permission, change of use of the land from a dwelling house within Use Class C3 to a house in multiple occupation within Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended)*".
 - The requirement of the EN is to: "*Cease the use of the land as a House in Multiple Occupation within Use Class C4 and revert to use as dwellinghouse use within Use Class C3*".
 - The period for compliance with the requirement is: Within three calendar months of this notice taking effect.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the 1990 Act.
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Appeal B Ref: APP/Q3060/W/24/3341607

48 Manston Mews, Nottingham NG7 3QZ

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
 - The appeal is made by Mrs Anne Hazard against the decision of Nottingham City Council.
 - The application Ref is 23/02052/PFUL3 (PP-12644616).
 - The development proposed is described as "*Change of use to four bedroom HMO (retrospective)*".
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Decisions

1. **Appeal A:** It is directed that the EN is corrected and varied by:

- *the substitution of the words "Without planning permission, change of use of the land from a dwelling house..." and their substitution with the words "Without planning permission, the material change of use of the land from a dwelling house..." in 3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL"; and*
- *the deletion of the words "...and revert to use as dwellinghouse use within Use Class C3" in 5. WHAT ARE YOU REQUIRED TO DO.*

Subject to the correction and variation, Appeal A is dismissed and the EN is upheld.

2. **Appeal B:** The appeal is dismissed.

Appeal A – the s174 Appeal

Matters Concerning the Notice

3. For a change of use to amount to development there must be a “*material change*” in the character of the use that the land is being put to, rather than simply a “*change of use*”. In the interests of precision, it is therefore necessary for me to correct the alleged breach of planning control. No injustice would be caused to the appellant as the alleged breach was clear from the EN.
4. Requiring the previous use to be reinstated goes beyond remedying the alleged breach of planning control and therefore it is necessary for me to omit this from the EN. Omitting this would not cause injustice to the Council as the EN's requirements would still remedy the alleged breach.

Preliminary Matter

5. The appellant asserts, amongst other things, that the property is not suitable as a family home; that they have not received any complaints from neighbours while it has been occupied as a house in multiple occupation (“HMO”); that there is a need for student accommodation in the area; and the exterior of the building is unchanged. The appellant has not made an appeal on ground (a) and therefore, I cannot consider these or any other planning merits under Appeal A. However, I will take these matters into consideration in Appeal B.

Appeal on Ground (g)

6. An appeal under ground (g) is that the period specified for compliance with the EN falls short of what should reasonably be allowed. The period for compliance specified in the EN is 3 calendar months.
7. The appellant asserts that the property was occupied by students whose contract expired on 31 August 2024. Compliance with the EN was three calendar months from 30 April 2024 (i.e. until 30 July 2024). The appellant has not specified an alternative compliance period, but the information before me is clear that they sought a date after the students’ contract expired. The students’ contract expired over 8 months ago and therefore, they should have vacated the property.
8. Consequently, I find that the three calendar month compliance period afforded by the EN does not fall short of what is reasonable.

Conclusion – Appeal A

9. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the EN with a correction and a variation.

Appeal B – The s78 Appeal

Preliminary Matters

10. The description of development in the banner heading above is taken from the Council’s decision notice as the description of development in the planning application form contained superfluous information that was not a form of development.

11. Since the appeal was lodged, a revised National Planning Policy Framework (“the Framework”) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

Main Issues

12. The main issues are:

- a) whether the development achieves a balanced and sustainable community; and
- b) the effect of the development on the living conditions of the occupiers of neighbouring properties, with reference to noise and disturbance, an intensification in vehicle parking in the surrounding area, periods when the property is vacant outside of term-time, and property maintenance including waste disposal.

Reasons

Balanced and Sustainable Community

13. In 2012, a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (“the Article 4 Direction”) came into force that withdrew permitted development rights for changes of use from Use Class C3 (dwellinghouses) to Use Class C4 (HMOs) from areas within the city of Nottingham. The appeal site is covered by the Article 4 Direction and therefore, retrospective planning permission is required for the development.
14. Policy HO2 of the Nottingham City Land & Planning Policies Local Plan Part 2, adopted 2020 (“LP”) seeks to address the shortage of homes that are suitable and attractive to families and encourage the provision of sustainable, inclusive and mixed communities by preventing the loss of a dwelling (Use Class C3) for family occupation through (inter alia) conversion to Use Class C4, unless it meets one of a list of exceptions.
15. The appeal site does not form part of a site allocation, and the property is not proposed for the development of main town centre uses. I am not aware that the development fulfils other regeneration aspirations of the Council; that housing need and demand indicates that an alternative mix of housing is appropriate; or the development meets other housing priorities for the Council. The development therefore does not comply with exceptions (a) to (d) of LP Policy HO2.
16. The Council assert that the appeal site is over 100m from the nearest Local Centre and therefore, it is not within or on the edge of a defined centre. From the information before me, I have no reason to disagree with the Council’s assertion. Therefore, the development does not comply with exception (e) of LP Policy HO2.
17. With reference to exception (f) of LP Policy HO2, even if the appellant could demonstrate that the property is no longer suitable for family occupation, the policy requires the dwelling to be replaced with a Class C3 dwelling suitable for family occupation, unless it meets exceptions (a) to (e). I have already found the development does not comply with exceptions (a) to (e) and therefore, it does not comply with exception (f).

18. Consequently, the development does not meet any of the exceptions detailed within LP Policy HO2.
19. LP Policy HO6 states that in assessing a development's impact on local objectives to create or maintain sustainable, inclusive and mixed-use communities, regard will be given to the existing proportion of HMOs and/or other student households in an area and whether this proportion amounts to, or will amount to, a significant concentration.
20. A "*significant concentration*" is defined as more than 10% of households being HMOs or student households within the Home Output Area (an area defined by the Office for National Statistics). The Council assert that as of November 2023, 19.1% of households within the appeal site's Home Output Area are HMOs or student households, thereby notably exceeding the significant concentration figure of 10%. The appellant has not contested the Council's figure, and I have no reason to disagree with the Council's assertion. Consequently, the development does not maintain a sustainable, inclusive and mixed-use community.
21. The appellant asserts that there is a need for student accommodation within the surrounding area. However, this has not been substantiated with evidence. I have also been directed to purpose-built student accommodation ("PBSA") under construction approximately 0.3 miles from the appeal site. However, PBSA is not assessed against LP Policy HO2. Furthermore, LP Policy HO6 supports PBSA within identified areas. Consequently, it is not directly comparable to the development.
22. For these reasons, the development does not achieve a balanced and sustainable community. It therefore conflicts with Policy 8 of the Broxtowe Borough, Gedling Borough, Nottingham City Aligned Core Strategies Part 1 Local Plan, adopted 2014 ("ACS") and Policies HO2 and HO6 of the LP which, amongst other things, seek to maintain, provide and contribute to a mix of housing tenures, types and sizes to create sustainable, inclusive and mixed communities.

Living Conditions

23. The appeal property is used as a 4-bedroomed HMO, licensed to be occupied by four people. It is located within a predominantly residential area.
24. The Council assert that the development is empty outside of term-time. However, the appellant states that some of their tenants have occupied the property all year round. Furthermore, HMOs can be occupied by different types of tenants, not just students.
25. Even if the property was empty outside of term-time, I have limited evidence before me to suggest that there are periods of time when a high proportion of HMOs in the surrounding area are empty. Consequently, the development does not have a significant detrimental effect on the living conditions of the occupiers of neighbouring properties from periods of vacancy outside of term-time.
26. The Council has raised concern regarding the future maintenance of the property and potential problems with waste disposal if it remains in HMO use. However, I saw that the property was in good condition when I undertook my site visit, and the front garden was well maintained with no evidence of overflowing bins.

27. While I accept that this was a snapshot in time, I have limited evidence before me to suggest that waste disposal has been a problem or that the property would not be maintained in the future. Consequently, the development does not have a significantly detrimental effect on the living conditions of the occupiers of neighbouring properties through property maintenance including waste disposal.
28. Families occupying a single dwelling are more likely to undertake day-to-day activities together as a household. Where-as the occupiers of a HMO are likely to lead independent lives from one another. Taking account of the size of the property, the activity generated by up to 4 people living independent lives, with separate routines, and their associated comings and goings along with those of their visitors and deliveries, would have an increased level of activity than that which could reasonably be associated with a family occupied 3-bedroom dwelling.
29. The dwelling is a mid-terrace property. Therefore, the increased level of activity associated with the HMO could cause significant noise and disturbance to the living conditions of the occupiers of the dwellings on either side, as well as the occupiers of other dwellings in the vicinity of the appeal site.
30. The appellant asserts that some dwellings in Manston Mews are occupied by a greater number of people than the development. However, I have not been provided with addresses for these properties and therefore I cannot determine if they are occupied as a HMO and directly comparable to the development.
31. The appellant asserts that they have not received any complaints from the occupiers of neighbouring properties while the development has been occupied as a HMO. However, I must consider the effect the development could have on neighbouring occupiers over its lifetime, which may differ depending on the tenants who occupy the property, or if it is managed by someone different.
32. Most of the surrounding dwellings, including the appeal property, have off-street parking. The appellant asserts that the appeal property's driveway can accommodate two vehicles. However, this has not been substantiated with evidence. Furthermore, two vehicles were parked on a neighbouring property's driveway at the time of my site visit and the second vehicle overhung the pavement, indicating the driveways are insufficient to accommodate two vehicles.
33. There are no parking restrictions on the surrounding roads. However, at the time of my site visit, there was a significant amount of on-street parking with some vehicles parked wholly on the pavement and others parked very close to junctions. Limited free spaces were available. Furthermore, I undertook my site visit during the day when the occupiers of properties were likely to be at work, college or university and therefore the number of parked vehicles were likely lower than during the evening. While I appreciate this was a snapshot in time, it demonstrates there is high demand for vehicle parking in the surrounding area, and that it could be problematic at times.
34. The occupation of the property as a HMO could result in each of the four occupiers having access to a private motor vehicle. Therefore, it could result in more vehicles needing to park in the surrounding area than if the property was occupied by a family. Consequently, the development could lead to an intensity of parking in the surrounding area to a level that could affect the living conditions of the occupiers of neighbouring properties.

35. For these reasons, the development harms the living conditions of the occupiers of neighbouring properties, with reference to noise and disturbance and an intensification in vehicle parking within the surrounding area. It conflicts with Policy 10 of the ACS and Policies DE1, DE2, HO6, TR1 and IN2 of the LP which, amongst other things, seek to provide a satisfactory level of amenity for occupiers of neighbouring properties; ensure that development does not generate on street parking that would have a detrimental impact on the amenity of local occupiers; and not result in noise at such levels that are likely to adversely impact on health or quality of life.
36. The Council's second reason for refusal includes LP Policy TR1. However, this policy seeks to encourage people to travel less, which is not directly applicable to this main issue.

Other Matters

37. I appreciate that the development has not altered the external appearance of the building; the appellant is a member of Nottingham City Council's landlord accreditation scheme (DASH); and that students should have the option to choose to live in a dwelling with outdoor space and a driveway that is close to transport links. I also acknowledge the letters of support from former tenants and a letter from the occupier of a neighbouring property who raises no objection to the development. However, these matters do not overcome the development's effect on the main issues previously identified and its conflict with the development plan.
38. I acknowledge the HMO has a license granted by the Council and that the development complies with the requirements of the license. However, the Planning and Licensing regimes are separate and involve consideration of different matters. Furthermore, licensing is not bound by decisions made by planning, or vice versa.

Conclusion – Appeal B

39. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that Appeal B should be dismissed.

A Berry

INSPECTOR