



Appeal Decision

Site visit made on 20 May 2025

by **K Savage BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

Appeal Ref: APP/Q3060/W/24/3357823

60 Heron Drive, Nottingham NG7 2DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
- The appeal is made by Ms Joanne Etchells (VSHF – Nottingham) against the decision of Nottingham City Council.
- The application reference is 24/01170/PFUL3.
- The development proposed is a single storey rear extension to an existing HMO property.

Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension to an existing HMO property, at 60 Heron Drive, Nottingham NG7 2DF, in accordance with the terms of the application, Ref 24/01170/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 drawing numbers: Location Plan (dated 12 July 2024); 60HD02a (Existing & Proposed Plans, Sections & Elevations).
 - 3) The external materials of the extension hereby permitted shall match those used in the existing building.

Preliminary Matters

2. The appellant indicated on the application form that work to construct the extension had not started, but the Council's evidence is that works began during its consideration of the application. I saw on site that an extension resembling that on the plans has been built. It will be seen below that the use of the extension as built is a point of dispute between the main parties. For the avoidance of doubt, I have determined the appeal on the basis of the plans and particulars before me.
3. This is one of three appeals before me made by the same appellant for the same form of development within the same area. I have assessed each proposal on its merits, but as a consequence of the identical form of development proposed and same arguments made by the appellant and the Council in each case, my decisions are also largely identical in their analysis and conclusions.

Main Issues

4. The main issues are i) whether the development has an adverse effect on the creation and maintenance of balanced and sustainable communities; and ii) the effect on the living conditions of neighbouring occupants.

Reasons

Background

5. The evidence before me is that the property is currently in use as a house in multiple occupation (HMO). The Council states that no planning permission exists for a change of use to an HMO of what was originally a dwellinghouse. However, it is indicated that the property has been licensed as an HMO since 2015. The permitted change of use from C3 to C4 use was restricted in 2012 under an Article IV Direction, but the Council does not allege that the existing use as a small HMO under Class C4 is unlawful.
6. Prior to the construction of the extension, the property was indicated to contain four bedrooms, one on the ground floor and three upstairs, which I saw to be the case at my visit. Reference is made to planning permission in 2005 to convert the garage to a study. This is now a bedroom, with the appellant stating it has been so for in excess of ten years. I have no evidence to verify this, but again the Council does not make any allegation of an ongoing planning breach in this respect.
7. The Council raises no concern with the actual form of the extension or its impact on any neighbours' living conditions. Rather, its concern relates to the use of the extension not as additional communal living space, but as another bedroom that would increase the number of occupants and thus be contrary to its policies seeking to create balanced and sustainable communities. The room appeared to be a communal living space at the time of my visit.
8. However, while the Council has misgivings over the appellant's intentions for the extension, it was required to assess the proposal as made, not the proposal that it believed reflected the situation on the ground or what it suspected may subsequently occur. If permission is granted and there is later a discrepancy between what is approved and what exists on site, that is a matter for the main parties to address separately. In light of this, I consider the issues cited in the Council's reasons for refusal on the basis of the layout and usage of rooms as shown on the plans before me.

Balanced and Sustainable Communities

9. Policy 8 of the Aligned Core Strategies Part 1 Local Plan (September 2014) (the ACS) seeks a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities, with an emphasis on providing family housing, including larger family housing, to address a lower than the national average stock of such accommodation. Point 4 states that the appropriate mix of housing will be informed by several indicators, including the need to redress the housing mix within areas of concentration of student households and HMOs.
10. This approach is further advocated through Policy HO1 of the Land and Planning Policies Development Plan Document (January 2020) (the LAPP). Policy HO2 presumes against the loss of dwellinghouses (Class C3) unless certain criteria are met, one of which is where it is shown that the property is no longer suitable for family occupation. This is due to a recognised shortfall of such housing in the city.
11. Policies HO1 and HO2 are not cited by the Council on its decision notice; however Policy HO6 is, which reinforces the need for proposals to accord with Policies HO1 and HO2, including the extension/alteration of existing HMOs that facilitates an

increase in the number of occupiers/bedspaces. It sets out that consideration will be given to the existing proportion of HMOs and/or student households in the area and whether this amounts to a 'significant concentration' using the stated methodology. The supporting text to the policy defines a 'significant concentration' as greater than 10%.

12. The Council points to the area already having a high concentration of properties in use as HMOs, at some 41.2%. Its position is that the additional room provided by the extension would facilitate increased occupation of the HMO that would conflict with the aims of Policy HO6 and Policy 8.
13. At over 41% concentration, there has already been a significant change to the character of the area. However, the appeal is for an extension to an existing HMO, to which the Council has raised no concern in character and appearance terms. Although the building is of a size and layout that would suit family occupation, there would be no loss of an existing dwelling, nor does the evidence suggest any realistic prospect of it becoming one again. In these respects, there would be no change to the overall ratio of single family dwellings to HMOs in the area, and consequently no conflict with the aims of Policies HO1 and HO2 to retain family-sized housing.
14. Policy HO6 seeks to capture the potential intensification of existing HMOs through extensions or alterations. The Council's case is that the extension is being used as a bedroom and not the 'additional living space' shown on the submitted plans. However, as set out above, it is ultimately the development applied for and as shown on the submitted plans that I must assess.
15. In that respect, the plans before me are for an extension to be used for increased living space. No change of use is sought and the description does not refer to any increase in the number of bedspaces or occupants. On a straightforward assessment of the plans, the extension would not provide additional sleeping accommodation. Therefore, there would be no conflict with Policy HO6(1)(b) and, by extension, Policy 8 of the ACS.

Neighbours' Living Conditions

16. In terms of the actual development proposed, no harm to neighbours' living conditions is alleged by the Council with respect to the single storey extension, and I concur that its modest size would not lead to a harmful loss of light or enclosure to neighbours.
17. The Council's concerns stem from the supporting text to Policy HO6, which sets out that HMOs have different impacts to dwellings, due to the short-term nature of the tenancies and different lifestyles of occupants, in particular students. These can include anti-social behaviour (ASB); poor waste management and property maintenance; increased parking pressure; crime and pressure on local facilities.
18. The Council's position is based solely on a perceived numerical increase in occupants that would be 'disproportionate' to the original size of the property, and likely to result in the aforementioned impacts. However, the Council advances no actual evidence of these adverse impacts occurring at the property or, even if there was to be an additional occupant, what the extra impact would be. I did not observe the property to be in a poor state of repair, or visibly overcrowded. Whilst there were high levels of parking in the area, no evidence has been advanced that

this is specifically due to HMO occupancy. For reasons already stated, the proposal as submitted would not increase occupancy of the HMO and therefore no demonstrable harm would arise in terms of the aforementioned impacts.

19. Moreover, the Council does not argue that the proposal would take the use of the building outside the C4 use class, which permits up to six occupants. I am not told of any planning condition or other restriction in force that otherwise limits the number of occupants of the building to less than six. Section 55(2)(f) of the Act also makes clear that the use of a building in one use class for any other purpose of the same class does not involve development of the land.
20. Therefore, while noting the Council's general concerns over intensification, and cumulative impacts of additional occupants in several HMO units, the building would remain in C4 use that has not been argued to be unlawful. As such, the building could have up to six occupants under the existing use class, irrespective of the proposed extension.
21. Overall, I conclude that the proposal would not cause harm to the living conditions of neighbouring occupants. No conflict arises with Policy 10 of the ACS or Policies DE1, DE2, HO6, TR1 and IN2 of the LAPP, which collectively seek high quality development that respects the character of the area, residential amenity, highway safety and the environment.

Other Matters

22. I have had regard to other points made by the main parties, including relating to space standards and HMO licencing, but in light of my conclusions above, these are not matters I need to address in detail as they would not alter the outcome of the appeal. I have noted the reference to my own decision on an appeal at 275 Radford Boulevard (Ref APP/Q3060/W/23/3333587), albeit this differs in that it proposed a change of use from a C3 dwelling to a C4 HMO in a different location within the city. Ultimately, I have reached my decision on the specific circumstances of the proposal.

Conditions

23. The Council has suggested a condition requiring the use of the extension to be for living space only and for any occupation of the extension as a bedroom to cease by the end of the 2024/25 academic year. As I have not found the proposal would cause demonstrable harm, I do not regard this condition as necessary. Neither is it necessary to restrict the number of occupants of the building, as this remains controlled by the C4 use class in which the building would remain.
24. Although it appears works on site have been completed, I do not have confirmation of this, so I will impose the normal time limit condition. A condition setting out the approved plans is also necessary, to provide certainty. Finally, it is necessary to require the external materials to match the existing building, to achieve a satisfactory appearance.

Conclusion

25. For the reasons set out, the appeal is allowed.

K Savage INSPECTOR