



Appeal Decision

Site visit made on 15 July 2025

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/Q3060/W/25/3364478

26 to 32 Castle Boulevard, Nottingham NG7 1FL

- 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 Billie Ragosta (Luxury Lettings) against the decision of Nottingham City Council.
 - The application Ref is 24/00565/PFUL3.
 - The development is described as 'retrospective planning application for the retention of the use of the 4 dwellings as Class C4 HMOs'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development in my banner is taken from the applicant's email dated 16 April 2024. Having regard to that description, I have dealt with the appeal on the basis of the retention of the existing use.

Main Issues

3. The main issues are:
 - whether or not the development has resulted in the loss of dwellinghouses suitable for family occupation, and its effect on the creation and maintenance of balanced communities;
 - whether the occupants of the host properties experience appropriate living conditions, with particular regard to outlook, light, ventilation and disturbance; and
 - the effect of the development on nearby occupiers' living conditions, with particular regard to noise, disturbance and the turnover of residents.

Reasons

Family housing and balanced communities

4. Amongst other things, Policy 8 of the Aligned Core Strategies Part 1 Local Plan (2014) ('ACS') seeks to ensure a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. It states that within Nottingham City there should be an emphasis on providing family housing, including larger family homes, along with flats in the city centre and innovative family housing on its fringes.

5. It continues that the appropriate mix of housing will be informed by factors including local evidence of housing need and demand, the area's character and accessibility, and the need to redress the housing mix in areas with a concentration of student households and Houses in Multiple Occupation ('HMO').
6. Policy HO6 of the Nottingham Land and Planning Policies Local Plan Part 2 (2020) ('LAPP') recognises the important contribution that HMOs make to meeting the city's accommodation needs, but states that planning permission for them will only be granted where it does not conflict with LAPP Policies HO1 and HO2. LAPP Policy HO6 part 2 a) and Appendix 6 state that, so as not to undermine local objectives to create or maintain sustainable, inclusive and mixed communities, the proportion of households in the local Output Area which are either student accommodation or HMOs should not exceed 10%.
7. Elsewhere in part 2 it says that other considerations include the characteristics of the building and the locality; the impact of existing and proposed HMOs on local character and amenity; and whether there would be adequate management and parking arrangements.
8. LAPP Policy HO1 requires a similar housing mix to ACS Policy 8, but continues that problems caused by the low provision of family homes is exacerbated in some areas by many being occupied as HMOs. It states that family housing is likely to be of no more than three storeys, with private enclosed gardens, and have three or more bedrooms, at least two of which are capable of double occupancy.
9. LAPP Policy HO2 encourages the provision of sustainable, inclusive and mixed communities, with a presumption against the loss of Class C3 dwellings¹ for family occupation throughout the city, unless certain exceptions apply. These include at part c) where local evidence of housing need and demand indicates that an alternative mix of housing is appropriate; or at part f) if it is demonstrated that the properties are no longer suitable for family occupation, in which case replacement with a new Class C3 dwelling will be the preferred approach.
10. LAPP Policy HO2 continues that if an applicant considers that part f) applies, a robust justification will be required, with factors considered including the location, compatibility with neighbouring uses, outdoor amenity space, car parking, outlook, and the adaptability of the internal layout.
11. The appeal site comprises four townhouses, which form part of a largely residential terrace on the northern side of Castle Boulevard. Each property has four floors of accommodation, with a broadly similar internal configuration, albeit No 28 has an additional fifth bedroom at ground floor.
12. In a letter dated 3 April 2024 the previous owner's son states that the properties were used as student flats prior to their purchase by the current owners. In a sworn statement dated 24 April 2024 the current owners declare that the properties were converted for use as HMOs since at least 2009, although they have also been let to individuals. According to the Statement of Case, and emailed correspondence, they have been rented out for several years to a mix of professionals, students, families, and local businesses for use by visiting workers. Each property also has a selective licence, thus enabling them to be rented to one or two tenants, or to a family, until 2026/27.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

13. S191 of the Town and Country Planning Act 1990 provides a formal mechanism to establish whether an existing use of land is lawful for planning purposes. I have no persuasive evidence before me that these properties' planning use is anything other than Class C3 - as set out in the original description of the proposal on the application form. I have therefore dealt with the appeal under S78 of the Act, as a change of use from Class C3 to Class C4.
14. Each property has four or five bedrooms, at least two of which appear to be suitable for double occupancy. Whilst there is a bedroom in each basement, I have no cogent reason to conclude that that configuration, which could be easily changed, would deter family occupants; and the properties' gross internal area would still exceed the minimum for a three or a four bedroom dwelling². Each also has an enclosed outdoor amenity space, which is supplemented by a first floor terrace accessed through a bedroom, thus providing areas to sit outside and relax.
15. In common with many properties on Castle Boulevard they do not have off-street parking, but there is a residents' parking permit scheme, and the site is close to city centre services, such that the occupants do not necessarily require a car.
16. The appellant states that the properties have not been occupied as family dwellings for several decades. As evidenced by the Luxury Lettings brochure, and as I observed on my visit, they have been refurbished and fitted out to a high standard; and I have no reason to doubt that they are well-managed, and rented to high-end tenants. However, having regard to LAPP Policy HO2 part f) and paragraph 4.24, that does not constitute robust justification that they are not suitable for family occupation, or that they could not be so occupied in the future.
17. There appears to be a general demand for HMO accommodation in Nottingham. However, having regard to LAPP Policy HO2 part c) I have no detailed evidence before me of local housing needs such as to demonstrate that an alternative mix of housing is appropriate, and that these properties' use as HMOs is more appropriate compared to their use as family dwellings.
18. Turning to LAPP Policy HO6 part 2 a) and Appendix 6, according to the delegated report ('DR'), which was supplied with the appeal questionnaire, 34.7% of the properties in this Output Area comprise HMOs or student accommodation, and the average with adjoining Output Areas is 31.5%. Whilst largely anecdotal, representations by interested parties also attest to HMOs in the area.
19. The appellant asserts that the site is close to, but not within, an area with a high concentration of student housing and HMOs. However, that stance is largely unsubstantiated and it does not reference the methodology at Appendix 6 of the LAPP. Consequently, whilst I have no evidence of a pre-existing cluster of HMOs in the immediate vicinity of this site, I have no cogent reason to doubt that the percentage of HMOs in the local area is well in excess of the 10% threshold as defined in the development plan.
20. The DR references a Government report³ which found that high concentrations of HMOs can result in adverse impacts including imbalanced and unsustainable communities, with consequent pressures on local services and facilities. The Council says that its experience is consistent with those findings, with paragraphs

² DCLP Technical housing standards – nationally described space standard (March 2015) (as amended)

³ Evidence Gathering: Housing in Multiple Occupation and possible planning responses – Final Report (2008)

4.56 to 4.58 of the LAPP setting out that they are often occupied by younger age groups, many of whom share similar lifestyle characteristics, and who typically do not have a long-term stake in the community. High concentrations of HMOs therefore have a distorting effect on neighbourhoods and the services they provide. For the above reasons, this scheme adds to the existing very high concentration of HMOs in this local area, leading to an increase in the transient population, and a detrimental impact on the stability and cohesion of the local community.

21. Summing up, whilst these properties may not have been occupied as family houses for many years, I have not been provided with robust evidence that they are unsuitable as such accommodation or, in the context of the particular need for family housing throughout Nottingham, convincing evidence of a local need for HMOs sufficient to outweigh the presumption against the loss of Class C3 dwellings. Moreover, there is already a significant over-concentration of HMOs in this local area, which this scheme exacerbates. It therefore undermines the planning objective of ensuring balanced, sustainable and appropriately mixed communities, in conflict with LAPP Policies HO1, HO2 and HO6, and ACS Policy 8.
22. Finally, although paragraph 61 of the National Planning Policy Framework 2024 ('Framework') sets out that the needs of groups with specific housing requirements should be addressed, it continues that the overall aim is to meet an area's identified housing need, including an appropriate mix of housing types for the local community. For the above reasons, the development conflicts with that approach.

Living conditions within the properties

23. Each property includes basement accommodation comprising a bedroom with an en-suite, those in Nos 28 and 30 being larger with a sitting area. I observed that the basement accommodation receives very limited natural light from a single gridded opening immediately next to the pavement, with the windows in Nos 26 and 32 being particularly small.
24. In my view, the occupants of HMO accommodation may wish to spend significant time in their private spaces due to the greater privacy it affords compared to communal areas which are shared with unrelated residents. I therefore share the Council's concerns that this basement accommodation provides relatively poor living conditions due to the absence of an outlook, the very limited natural light and ventilation, and a degree of disturbance from passing pedestrians.
25. That said, those occupants have access to large, high quality shared kitchen, dining and lounge areas, to sit, relax and eat, along with a decked garden. On this issue, I therefore conclude that there is only a modest degree of harm. There is thus a limited conflict with those parts of ACS Policy 10 and LAPP Policy DE1 which require proposals to create an attractive and healthy environment for the occupants, having regard to matters such as daylight, sunlight, outlook, noise and nuisance, and room layouts which are functional and fit for purpose.

Nearby occupiers' living conditions

26. Residents in HMOs typically lead independent lifestyles, which could thereby generate additional comings and goings compared to a Class C3 dwelling. That said, these HMOs have a maximum of just four or five residents. That occupancy limit, which could be controlled by means of a planning condition, is broadly comparable to the number that may typically occupy them as Class C3 dwellings.

In that context, whilst these are terraced properties with party walls, I am not persuaded that the comings and goings, the use of the spacious internal communal spaces, or the turnover of residents, gives rise to a significantly greater, or a harmful, impact on nearby occupiers due to noise and disturbance.

27. As the site has good accessibility to services and amenities, the occupants do not necessarily require a car. For that reason, and given my conclusion regarding the broadly equivalent number of occupants compared to a Class C3 use, the scheme does not inconvenience local residents by adding significantly to parking pressures, and it does not generate a significantly greater quantity of waste. That the proposal could result in poor property upkeep and maintenance is conjecture.
28. I am satisfied that reasonable use of these properties as Class C4 HMOs does not give rise to a harmfully adverse impact on nearby occupiers' living conditions. The scheme does not therefore conflict with those parts of ACS Policy 10, or LAPP Policies DE1, IN2 and HO6 part e) which require HMOs to incorporate adequate management arrangements and parking provision; and which state that proposals shall have regard to the impact on the amenity of the area and on nearby residents, with reference to matters such as noise, odour and nuisance.

Other considerations

29. I understand that the properties were in need of repair when they were purchased by the appellant in 2006. With reference to her letter dated 3 April 2024, I do not doubt that their appearance has been significantly enhanced through careful restoration. However, notwithstanding that history, and her dissatisfaction with the Council's handling of the application, including delays and failure to reply to emails, I have dealt with the scheme before me on its planning merits.
30. The appellant states that letting the properties to no more than two people would limit rental income and would represent an underuse of this spacious accommodation, contrary to the Framework's requirement to make an effective use of land, and to support the local economy. However, I have not been provided with robust evidence as to why they could not be let to, or would not be attractive to, families, with a similar number of occupants and who may make a comparable contribution to the economy.

Other matters

31. The properties fall within the Nottingham Canal Conservation Area ('NCCA'). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in respect of development affecting conservation areas, special attention shall be paid to the desirability of preserving or enhancing their character or appearance.
32. I have not been provided with a detailed description of the NCCA, or the special architectural or historic interest it possesses. However, there have been no changes to the properties' external appearance as a result of the development. Its impact on the area's architectural and historic interest is broadly neutral, and the assertion by an interested party that it leads to a homogenised streetscene, lacking in diversity, is unfounded. Having regard to the requirements of the Act, and having applied great weight to the conservation of this designated heritage asset in accordance with the Framework, I agree with the Council that the NCCA's character and appearance has been preserved.

Planning Balance and Conclusion

33. Summing up, whilst the scheme contributes to the mix of accommodation in Nottingham, the replacement of Class C3 dwellings with HMOs adds to the already unbalanced nature of this local community. Notwithstanding their quality and history, it has not been robustly demonstrated that these properties are not suitable for family occupation or, in the context of the general need for family accommodation throughout Nottingham, convincing evidence of a local need for HMOs such as to outweigh the presumption against their change of use. Indeed, on the basis of the evidence before me, there is already a significant over-concentration of HMOs in this local area, which this scheme exacerbates.
34. Additionally, whilst the scheme does not harmfully impact nearby occupiers' living conditions, there is a modest degree of harm as a result of its failure to provide appropriate living conditions for the occupants of the basement accommodation.
35. The scheme conflicts with the development plan when considered as a whole, and material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Having regard to all other matters raised, the appeal is therefore dismissed.

Chris Couper

INSPECTOR