

## Report of the Chief Executive

## Appeal Decision

<b>APPLICATION NUMBER:</b>	<b>24/00754/FUL</b>
<b>LOCATION:</b>	<b>26 Birley Street Stapleford Nottinghamshire NG9 7GE</b>
<b>PROPOSAL:</b>	<b>Conversion to 8 Person HMO</b>

**APPEAL ALLOWED****RECOMMENDATION BY OFFICER – REFUSAL****REASON FOR REFUSAL –**

The proposal, by virtue of the change of use into an 8-bed house in multiple occupancy (sui generis use) would be unacceptable due to the significant direct and cumulative impact on the amenity and highway safety of the immediate adjacent neighbouring properties. as such, the development would fail to accord with Policy 17 of the Part 2 Local Plan (2019) and Policy 10 of the Broxtowe Aligned Core Strategy (2014).

The inspector considered the main issue to consider was:

- Effect of the proposal on the living conditions of local residents with regard to car parking, noise and disturbance.

**REASONS**

1. The appeal site consists of a semi-detached property in a residential area. Very few of the properties in the street have off-street parking, and there are currently no restrictions for on-street parking. At the time of my site visit there was a moderate amount of on-street parking available close to the appeal site. However, this was only a snapshot in time during the middle of a weekday morning, when people may have left their homes to go to work or the shops, for example. Given the number of houses in the Birley Street and the surrounding area, I do not doubt that on-street parking would be more limited during evenings and weekends when people are likely to be at home.
2. The Council does not appear to dispute that the property has already been converted to a House in Multiple Occupation (HMO) for up to six persons through permitted development. The appeal proposal would see two of the existing single bedrooms turned into double bedrooms. As no new bedrooms or households are being created, and as the occupiers of the double rooms could well be couples who share a car, it is unlikely that the proposal would result in any significant increase in the number of cars used by the occupiers of the property. Furthermore, there are bus stops and a parade of shops within walking distance

of the appeal site, so current and future occupiers of the HMO would not necessarily be reliant on cars.

3. During the original application, a representation was received from a neighbouring resident saying they like to park as close to their house as possible for medical reasons. I have had regard to the evidence of the personal circumstances of this neighbouring resident and from this I cannot rule out the possibility that they may have protected characteristics under the Equality Act 2010 (EA2010). Consequently, I have had due regard to the Public Sector Equality Duty (PSED) contained at Section 149 of the EA2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
4. Since it has not been demonstrated that the proposal would lead to a significant demand for additional on-street parking, it would not be reasonable to dismiss the appeal on the grounds that the scheme would prejudice the ability of a resident with medical needs to park near their property.
5. The Council contends that two additional occupants at the HMO may give rise to unacceptable noise and disturbance. However, it provides no substantive evidence to support this assertion, and I note that there is no evidence of any complaints to the environmental health department regarding the existing use. Although local residents have raised concerns regarding bins left at the front of the property and people smoking in the doorway, I have not been provided with the evidence to persuade me that this results in a level of harm sufficient to justify dismissing the appeal.
6. For these reasons, the proposal would not cause unacceptable harm to the living conditions of occupiers of neighbouring properties. The proposal would therefore accord with Policy 17 of the Broxtowe Borough Council Part 2 Local Plan 2018-2028 (2019) and Policy 10 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan (2014), insofar as they seek to protect the living conditions of nearby residents or occupiers.

### Other Matters

1. In the officer's report, the Council states that 'the layout and design of the bedroom is not optimal and the room size for two occupants is relatively small.' However, it is not clear which particular bedroom the Council is referring to, and this matter was not included in the reason for refusal. Notwithstanding this, the Council Appeal Decision APP/J3015/W/25/3359633 <https://www.gov.uk/planning-inspectorate> 3 accepts that the two bedrooms which would have two occupants would satisfy the minimum space standards. From the evidence before me, the bedrooms appear to be of a reasonable size and would be adequately furnished.

I therefore have no justifiable reason to conclude that the proposal would lead to unsatisfactory living conditions for the occupiers of the HMO.

2. A number of nearby residents have raised concerns surrounding the conversion of a family house to an HMO. However, as stated above, the conversion to an HMO appears to have been carried out through permitted development. This appeal proposal is for conversion to a larger HMO to accommodate two additional occupiers within existing bedrooms, and not the creation of the HMO itself. As such, any matters which have been raised regarding the conversion of a family house to an HMO fall outside the scope of this appeal.
3. It is suggested that a property containing individual flatlets would not constitute an HMO. However, as the property would contain a shared communal kitchen space available to all of the occupants, I have no reason to believe that the appeal property would not meet the definition of an HMO as set out in Section 254 of the Housing Act 2004.
4. I have taken into account the concerns from local residents regarding the effects of the proposal on the character of the street, privacy and infrastructure and amenities. However, the property is already in use as an HMO for up to six persons, and there is no evidence before me to demonstrate that the addition of two further occupants would have adverse effects in respect of these matters. Although it is suggested that an Environmental Impact Assessment is required, the scheme falls well short of the relevant thresholds for the submission of an Environmental Statement.
5. The effect of a proposal on property values is not a material planning consideration. The premature advertising of rooms and profiteering are matters which fall outside the scope of this appeal. I have made my decision based on the planning merits.

### **Conditions**

1. The standard time limit condition and a condition specifying the approved plans are necessary to provide certainty and in the interests of proper planning.
2. I note from the officer report that the Council's Environmental Health team suggested conditions to limit construction noise and require the submission of a construction/method statement. However, as the proposal would not result in any construction work to the property, these conditions would be neither reasonable nor necessary.

### **Conclusion**

For the reasons given above the appeal should be allowed.