



Appeal Decision

Site visit made on 12 September 2017

by **I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th October 2017

Appeal Ref: APP/Q3060/W/17/3177036

Site of 31 Gregory Street, Nottingham NG7 2NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sajaid Mahmood against the decision of Nottingham City Council.
 - The application Ref 16/02055/PFUL3, dated 6 September 2016, was refused by notice dated 20 January 2017.
 - The development proposed is the erection of student accommodation.
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Decision

1. The appeal is dismissed.

Procedural matter

2. A properly completed unilateral undertaking made under section 106 of the Town and Country Planning Act 1990 has been submitted. It secures financial contributions towards public open space and the implementation of a Student Accommodation Management Scheme. Its terms are addressed in more detail within the decision.

Main Issues

3. One of the Council's two reasons for refusal of planning permission was that an archaeological evaluation of excavations on the site was necessary in order to determine whether further work was required. A report on this matter has been submitted to the Council which appears to me to address this issue satisfactorily. In the absence of any criticisms as to the adequacy of this report, I therefore find that this reason for refusal has been addressed.
4. The main issues in this appeal therefore relate to the first reason for refusal and are:-
 - the effect of the proposal on the balance and sustainability of the community having regard to the level of student housing; and
 - the effect of the proposed development on the living conditions of local residents with regards to noise and anti-social behaviour.

Reasons

Balanced and sustainable community

5. The appeal site is previously developed land formerly occupied by a Red Cross building. It is not a matter in dispute that in principle the site is suitable for residential development. The proposed development would result in purpose built student accommodation providing 43 one bedroom units.

6. The development plan includes the Nottingham Local Plan ('Local Plan') adopted in 2005 and the Greater Nottingham Aligned Core Strategies (ACS) adopted in 2014. Policy 8 of the ACS outlines the general approach to residential development. Consistent with paragraph 50 of the National Planning Policy Framework ('the Framework') it seeks an appropriate mix of housing tenures, types and sizes to create sustainable, inclusive and mixed communities. The provision of family housing is emphasised and the appropriate mix of housing is to be informed by, amongst other matters, the need to redress the housing mix within areas where there is a concentration of student households. Policy ST1 of the Local Plan requires that new development contributes to the creation and maintenance of balanced communities. Policy H6 of the Local Plan deals with student housing. It states that planning permission will be granted for student accommodation where the development or maintenance of balanced communities is not prejudiced.
7. In seeking to create sustainable, inclusive and mixed communities the approach of the development plan, in providing detail as to how this will be achieved, is consistent with the Framework. Therefore although the Local Plan predates the Framework by several years I attach full weight to it.
8. The supplementary planning document '*Building Balanced Communities*' (SPD) provides guidance in this regard. It encourages the provision of new purpose built student accommodation within University campuses, on sites requiring regeneration in their proximity, as identified by the development plan, and on the fringes of the City Centre, particularly in the Eastside and Southside Regeneration Zones. On the basis of the parties' cases and the evidence before me, the appeal site is not located within any of these areas.
9. The SPD at paragraph 3.20 identifies criteria against which the extent to which development would prejudice the creation and maintenance of balanced communities will be assessed. This includes the percentage of student households in the locality.
10. The appeal site is located within an area where the average concentration of student households to the nearest whole number is 29%. The SPD advises that if a site is within an area where students account for more than 25% of households further student housing would exacerbate community imbalance and that planning permission will be refused. The threshold of 25% has been derived from research and, in my judgement, provides a strong indication of when the extent of student households in an area is unbalancing a community. As such it is an important material consideration.
11. The SPD acknowledges that the decision as to when the number of student households in an area becomes unacceptable cannot be treated as purely mathematical. However, for the reasons given below, I find that the appellant has not produced sufficient evidence to demonstrate that the community balance in the area would not be adversely affected by the proposed development.
12. The appellant has referred to a Unipol report published in 2014¹ which advised that there was a danger of an oversupply of purpose built student accommodation in the city centre. However, in a recent newspaper article the City Council stated that purpose built accommodation in the city in 2016 / 17 had a vacancy rate of only 1.2%. This suggests that the oversupply envisaged

¹ '*Assessment of Student Residence and Housing Market Conditions in Nottingham*', Unipol 2014

- by the 2014 report has not materialised. In these circumstances, the Council approach of encouraging purpose built student housing in certain parts of the city appears to be successful.
13. The proposed development would help address demand for student accommodation near to Nottingham University Park campus and the Queens Medical Centre. Indeed paragraph 50 of the Framework, among other matters, advises that local planning authorities should identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand. However, read as a whole, it is clear from paragraph 50 that local demand should not be interpreted solely as open market demand from one section of the community. In order to determine the right mix of housing demographic trends and the needs of other groups within the community need to be taken into account. Policy 8 of the ACS in emphasising the need for family housing and the development plan's approach to student housing are examples of this. I therefore find that the presence of market demand for the proposed housing does not demonstrate that the proposal would not adversely affect community balance.
 14. Further increasing student households in the area would exacerbate the high percentage of this type of household that consists of short term residents from one age group who often do not see themselves as part of the existing local community. In my judgement, this would harm the social mix and fabric of the area.
 15. It is argued that the proposal would reduce the demand for student accommodation in houses in multiple occupation (HMOs) within nearby residential areas where some of the highest concentrations of student households and greatest community imbalance are to be found. However, in my judgement, students who are attracted to purpose built student accommodation of a high standard with en-suite facilities and a gymnasium, such as the appeal proposal, are far more likely to be attracted to accommodation offering a similar standard of facilities elsewhere in the city, rather than HMOs. As a result, I find it unlikely that the proposed development would reduce the demand for student HMOs in nearby areas.
 16. Reference has been made to eight developments where the Council granted planning permission for schemes involving conversion or new build to provide accommodation in areas where the concentration of student households exceeded 25%. It is an established principle that each application is assessed on its merits. In the absence of further information in relation to all but two of these schemes it is not possible to determine whether the exceedance of 25% was marginal. Furthermore, there may have been other site specific factors in these cases that weighed in favour of granting permission.
 17. One of the two schemes where more detail was provided was Radford Mill. It is a residential scheme offering a range of accommodation to the wider population. As a result it is not directly comparable to the appeal proposal. In relation to the other scheme, Graystacks is located in an area where the percentage of student households is the same as the appeal site. The site was also in a prominent location and in need of redevelopment. However, unlike the appeal site, sandwiched between the main road and the canal it was far less suitable for alternative forms of housing. Furthermore, based upon the information that has been submitted the amount of residential development

next to the site is not as great. As a result, the potential for noise and disturbance affecting neighbours is less.

18. Three allowed appeal decisions have also been referred to where student households exceeded 25% in an area². In these decisions the Inspectors found that high concentrations of students in a locality were not necessarily indicative of a lack of balance in the community. However, caution must be exercised when drawing parallels between appeal cases as circumstances are rarely directly comparable. For example, these appeals related to development involving far lower numbers of students than in the proposal before me and so are materially different in terms of scale. Furthermore, one of the appeals³ refers to other decisions where Inspectors came to a different view regarding exceedance of the 25% threshold and community imbalance. Different Inspectors have therefore taken different views on this matter. The Inspectors in all these appeals would have exercised their judgement on the evidence in relation to their particular cases. I have similarly used my judgement in respect of the evidence before me.
19. For the reasons given above, reference to these other permissions and decisions therefore has not altered my findings in relation to this issue or any other issues in this appeal.
20. Taking all these matters into account, I therefore conclude that the proposed scheme, by further increasing student households in the area, would exacerbate the high percentage of such households and cause material harm to the social mix and fabric of the area. It would therefore prejudice the creation and maintenance of a balanced community contrary to policies ST1 and H6 of the Local Plan, policy 8 of the ACS, the SPD and paragraph 50 of the Framework.

Noise and anti-social behaviour

21. The entrance of the building would be located well away from neighbouring houses and the windows to the student accommodation would not be openable. As a result, in conjunction with the management agreement that would be secured by the submitted planning obligation, it is unlikely that noise or disturbance from within the building or its outside amenity area would adversely affect the living conditions of neighbours.
22. However, there would be little control over any noise and disturbance occurring late at night from students once they have left the property or when they are returning. A development housing 43 students would be capable of generating a significant number of movements to and from the building. Gregory Street is a residential street and the nearest tram stop is located nearby close to housing. As a result, in my judgement, late night activity associated with students and visitors leaving and returning to the proposed building is likely to materially increase noise and disturbance in the area to the detriment of the living conditions of local residents.
23. The appellant argues that if the site was instead developed with one or two bedroom flats aimed at the wider housing market no management agreement would be provided to the Council to control the behaviour of residents within the building. However, in my view, accommodation available to the wider population is significantly less likely to result in the problems described.

² Appeal references APP/Q3060/A/11/2143994, APP/Q3060/A/11/2165198, APP/Q3060/A/13/2206110

³ Appeal references APP/Q3060/A/13/2206110

24. For these reasons, I therefore conclude that the proposed development would result in noise and disturbance that would demonstrably harm the living conditions of local residents. This would be contrary to policy 10 of the ACS and policies H6 and NE9 of the Local Plan which seek to protect the living conditions of nearby residents from harm.

Other matters

25. The proposed development would be within the setting of The Priory Church of St Anthony which is a Grade II listed building that faces the appeal site. It is enclosed by a Grade II listed boundary wall and also contains some Grade II listed memorials. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. The stone built church dates from the 12th Century. Its special interest and significance, together with that of the boundary wall and memorials, is historical and architectural. The elements of its setting that contribute to its significance include its relationship with the appeal property which forms part of its setting in views from Abbey Street and Abbey Bridge to the west.

26. The appeal site in its current cleared state does not contribute to the significance of the church and associated listed structures. The proposed building, which would rise in height from two storeys to four towards its middle, would be well designed. Subject to the use of appropriate external materials, which could be controlled by condition, it would complement the setting of the listed buildings described and the streetscene. As a result, the statutory test would be complied with.

27. The appellant states that redevelopment of the site for other forms of housing aimed at the wider market would be less viable. However, in the absence of substantive evidence in relation to this matter, I am not persuaded that the development of other forms of housing on the site would be unviable. As a result, I attach little weight to this consideration in favour of the appeal.

Overall conclusions

28. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social.

29. In this case, the proposal would be contrary to the development plan in that it would prejudice the creation and maintenance of a balanced community and would result in noise and disturbance that would harm the living conditions of nearby residents. The proposed development would not result in any other harm to matters of acknowledged planning importance. However, the absence of harm is a matter of neutral rather than positive weight that weighs in favour of a proposal.

30. The appeal site is in an accessible location with regard to public transport, services and facilities. Environmentally, the proposal would make efficient use of previously developed land. The design of the building would also complement its setting and improve the appearance of this cleared site which is in a prominent location. In terms of the economy, it would generate employment during its construction. The increase in local population would also to some extent boost the spending power of the local economy to the benefit of local businesses. However, for the reasons given in the preceding

section, I am not persuaded that this is the only economically viable form of residential development on the site. Socially, the proposal would provide accommodation for which there is a demand.

31. I attach some weight to the economic and social benefits of purpose built student housing in this accessible location. However, this has to be balanced against the significant harm that would be caused by the unbalancing effect of the proposal on the community and harm to living conditions that would occur contrary to the development plan and the Framework.
32. Having considered all the matters raised, I conclude that the proposal would not accord with the development plan and Framework as a whole and that the collective benefits of the proposed development are material considerations of insufficient weight to indicate that the proposal should be determined other than in accordance with the development plan. The appeal should therefore be dismissed.
33. As I noted as a procedural matter, at the request of the Council the appellant has submitted a properly completed unilateral undertaking made under section 106 of the Town and Country Planning Act 1990. The tests in paragraph 204 of the Framework and regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) apply to planning obligations. In this case however, as the appeal is to be dismissed on its substantive merits, it is not necessary to assess the agreement against these requirements.

Ian Radcliffe

Inspector