



Appeal Decision

Site visit made on 2 July 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/P4605/W/19/3224503

486 City Road, Harborne, Birmingham B17 8LN

- 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 Steve Weselby (Edgbaston Lettings) against the decision of Birmingham City Council.
 - The application Ref 2018/09222/PA, dated 12 November 2018, was refused by notice dated 10 January 2019.
 - The development proposed is change of use from C4 small HMO to Sui Generis 7 bedroom HMO and dropped kerb.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from C4 small HMO to Sui Generis 7 bedroom HMO and dropped kerb at 486 City Road, Harborne, Birmingham B17 8LN in accordance with the terms of the application, Ref 2018/09222/PA, dated 12 November 2018, subject to the following conditions:
 1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with approved plans numbered 3761-01A and 3761-02L.
 3. The HMO hereby approved shall be occupied by a maximum of 7 persons at any one time.
 4. Prior to the first occupation of the development hereby approved by 7 persons at any one time, details of secure and covered storage for cycles and motorcycles to serve the approved development shall be submitted to and approved in writing by the local planning authority. Cycle and motorcycle storage facilities shall be provided in accordance with the approved details prior to the commencement of development and thereafter shall be retained.

Procedural Matter

2. The National Planning Policy Framework (the Framework) was revised on 19 February 2019 and this post-dates the Council's refusal notice. I have considered the Framework as part of the determination of this appeal.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the mix of housing and the need for balanced community.

Reasons

4. The appeal property is a 3 storey building facing the road. The site lies in a predominantly residential area with a mix of 2 and 3 storey properties. Several of the properties close to the appeal site have been sub-divided into flats or are used as houses in multiple occupation (HMOs).
5. A certificate of lawful development¹ confirms the change of use of the appeal property from a dwelling (Class C3) to HMO (Class C4) as being lawful. It is evident from the Council's submissions that at the time of the determination of the application, renovation works in connection with this change of use were on-going. However, the works have now been completed and the building is now in use as a 6-person HMO.
6. The proposal would permit the utilisation of a room on the second floor as an extra bedroom in addition to the 6 currently contained in the appeal property. The only alteration to the external appearance of the building would be the addition of a rear window.
7. The appeal site retains the general appearance of a residential property following the recent conversion works. Whilst the intensity of the current use may differ from single family houses, the appeal site still has a residential character. The proposed development would result in a modest intensification of the residential use through the introduction of an additional bedroom. However, given it is already a lawful 6-person HMO, the proposal is unlikely to lead to any discernible change in the nature or level of the residential use of the appeal property. The proposed development would therefore have no significant effect on the appearance and character of the appeal site compared to the existing situation.
8. As well as the appeal property, there are other HMOs and buildings sub-divided into flats in the street. Concern is raised over the cumulative effect of a high number of premises in such uses on the character of the area. I note the site lies in the Gillott Road Area of Restraint, therefore subject to a restraint policy in respect of additional residential care homes, hostels (Use Class C1 and C2) and day nurseries. However, as the appeal property is already in such use, the proposal would not result in any additional HMO in the area. Therefore, the proposed development would not contribute further to any cumulation of non-single household properties.
9. I note objections to the appeal proposal relating to cumulative parking issues, however, the Council raise no objection on these grounds. As the proposed development would not lead to a significant intensification of use compared to the existing situation, I find no reason to conclude differently on the issue.
10. I also have no evidence before me to suggest the proposal would cause issue with regards to refuse storage and collection or air pollution. I note comments relating to concern over crime and anti-social behaviour. However, West

¹ Birmingham City Council reference number 2018/06620/PA issued on 8 October 2018.

Midlands Police have registered no formal objection. Given the scale of the development compared to the existing HMO, it is unlikely that any additional occupant of the appeal property as a result of the proposed development would lead to a significant increase in crime or anti-social behaviour.

11. Policy TP27 of the Birmingham Development Plan 2017 (BDP) looks to create sustainable neighbourhoods and balanced communities characterised by, amongst other features, a wide choice of housing sizes, types and tenures. The Council refer to the Strategic Housing Market Assessment as evidence for an identified need for 4 or more-bedroom houses.
12. The proposed development would have no effect on the mix of residential accommodation other than through the addition of an extra bedroom in the existing HMO. Also, as the appeal property is now used as a 6-person HMO, the proposal would not result in the loss of a large dwelling occupied as a single household. I note the Council's comment that it may be easier to convert back to a single household dwelling from a Class C4 HMO. However, given the recent alterations and occupation, it appears unlikely the appeal property would be converted back to a single-household dwelling. For these reasons, the proposed development would have no significant effect on housing choice and consequently on the balance of the local community.
13. For the reasons outlined above, I conclude the development would cause no significant harm to the character and appearance of the area through an unacceptable change to the housing mix or to the balance of the community. Consequently, and in this regard, it would accord with saved policies 8.23 to 8.25 of the Birmingham Unitary Development Plan 2005, policies PG3, TP27, TP30 and TP35 of the BDP, the provisions of the Birmingham City Council Specific Needs Residential Uses: Unitary Development Plan Policies: Houses in Multiple Paying Occupation Hostels and Residential Care and Nursing Homes Supplementary Planning Guidance: Bedroom Sizes for Student Accommodation and the Framework. These aim, amongst other things, to ensure that development proposals avoid harm to the character and appearance of an area and to ensure developments help create balanced and sustainable communities through the provision of a mix of housing.

Conditions

14. I have considered the list of conditions suggested by the Council, having regard to the tests set out in the Framework. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved plans and to provide certainty. A condition limiting the number of occupants is required as this also provides certainty. Both main parties have commented on, and raised no objection to, such a condition.
15. A condition is necessary requiring the submission, approval and provision of covered cycle and motorcycle storage in the interest of promoting sustainable transport movement to and from the site. I have amended the wording of the condition to ensure it is precise in terms of requirements.
16. A condition is suggested requiring details of noise insulation to be submitted and approved to ensure all windows and external doors to habitable rooms on the City Road elevation provide sound reduction. However, all such rooms are already lawfully occupied as part of the established HMO. The additional 7th bedroom has a single window facing onto the rear garden and not City Road

and so is unlikely to be unduly affected by noise. As such, the suggested condition is unnecessary and unreasonable.

17. Conditions have also been suggested by West Midlands Police for security reasons. These relate to the provision of secure doors to each bedroom, provision of an access control system with video monitoring and remote access control, provision of CCTV and secured by design standards. As the property is already operated as a 6-bedroom HMO, the appeal proposal is unlikely to give rise to any significant additional security or crime risk concern. The suggested conditions are therefore unnecessary and unreasonable.

Conclusion

18. For the reasons given above, and taking into account all other matters raised, I allow the appeal as set out in the formal decision above.

Jonathan Edwards

INSPECTOR