



Appeal Decision

Site visit made on 20 August 2019

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2019

Appeal Ref: APP/P4605/W/19/3228459
100 Dale Road, Birmingham B29 6AG

- 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 S Butt against the decision of Birmingham City Council.
 - The application Ref 2018/08175/PA, dated 5 October 2018, was refused by notice dated 23 November 2018.
 - The development proposed is demolition, in part, extensions, alterations and change of use to a large 11 bed House of Multiple Occupation (Sui-Generis).
-

Decision

1. The appeal is allowed and planning permission is granted for demolition, in part, extensions, alterations and change of use to a large 11 bed House of Multiple Occupation (Sui-Generis) at 100 Dale Road, Birmingham B29 6AG in accordance with the terms of the application, Ref 2018/08175/PA, dated 5 October 2018, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4380/43F, 4380/44B and 4380/45.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matters

2. The description of the development included reference to elements of the proposal being retrospective however this is not in itself development. I have therefore removed such references from the description. I have included the reference which is on the decision notice to the House of Multiple Occupation (HMO) having 11 bedrooms, in the interest of clarity and because it is clear from both parties, and from the plans submitted, that this is what is being proposed.
3. Both the Council and Appellant have made reference to a planning permission granted in 2018 (ref. 2017/07918/PA) which allows for the use of the property as a large 8 bed HMO. This extant permission is a viable fallback position and I have had regard to it in reaching my decision.

Main Issues

4. The main issues are the effect of the development on (i) the character of the area and (ii) living conditions, with regard to the occupiers of nearby properties

and whether adequate outdoor amenity space would be provided for the residents of the HMO.

Reasons

Character of the area

5. The appeal site comprises a terrace property located on a corner of Dale Road in an area that is characterised by terrace properties, purpose-built student accommodation and university buildings. The Council states that dwellings on Dale Road and the adjoining North Road are predominantly in use as student accommodation or HMOs and I observed during my site visit a substantial number of estate agent boards advertising properties for rent.
6. The appeal proposal would increase the number of bedrooms in the HMO from the previously permitted number of 8 to 11. This would mean that the appeal development would have no material impact on the concentration of HMO uses in the area compared to the previously permitted development, as in both instances the property would be used as a large HMO. I therefore find no harm to the character of the area in this respect.
7. I conclude that the development would not cause harm to the character of the area due to an overconcentration of HMOs and that there is therefore no conflict with Policy TP27 of the Birmingham Development Plan 2017 (BDP) which seeks to create sustainable neighbourhoods, Saved Policies 8.24 and 8.25 of the Birmingham Unitary Development Plan 2005 (BUDP) which set out criteria for HMO developments and the Wider Selly Oak Supplementary Planning Document 2015 (SPD).

Living conditions

8. I acknowledge that an increase in the number of bedrooms at the HMO from 8 to 11 would be likely to lead to additional comings and goings and potentially to additional noise generation from the property. However, the increase in the number of bedrooms compared to the previously approved HMO is not substantial and having regard to the nature of the surrounding area, in which a significant amount of student and HMO properties are already located, I do not consider that the intensification proposed is likely to cause material harm to the living conditions of the occupiers of nearby properties.
9. With regard to the provision of outdoor amenity space, the Council concedes that this would be below the requirements of the Specific Needs Residential Uses Supplementary Planning Guidance (SPG) with respect to the approved 8 bedroom development. Whilst the 11 bedroom development would lessen the amount of space available per occupier, I do not consider that this would alter the ratio of outdoor space available to occupiers to a degree where any material harm would arise.
10. Furthermore, the Council considers that the proposed bedroom sizes are generous and would exceed the guidance of the SPG. Internal communal facilities including a kitchen/common room and a laundry room would be provided. In addition, the site is located in close proximity to the many amenities and facilities that are available in this sustainable city location. These factors add additional weight to my conclusion that the outdoor amenity space

proposed would not result in harmful living conditions for the occupiers of the 11 bedroom HMO.

11. I note that the Council has concerns about the overshadowing of the outdoor amenity space from existing buildings and the perimeter wall, however it is not unusual for such relationships to exist in densely built urban locations. The Council also has concerns that the outdoor amenity space would be used for bin and cycle storage which would reduce the size of space available, however I consider that this could be accommodated in a way that would not significantly affect the usability of the space.
12. I conclude that the development would not cause harm to the occupiers of nearby properties due to the proposed intensification of the use and that the development would provide an adequate amount of outdoor amenity space for the residents of the HMO. I therefore find no conflict with Policies PG3 and TP27 of the BDP which relate to place making and the creation of sustainable neighbourhoods. Although the development does not comply with the guidelines for outdoor amenity space set out by the SPG, for the reasons stated above I am nevertheless satisfied that adequate living conditions would be provided. The Council has also referred to Paragraph 3.14C of the BUDP which in turn refers to the Places For Living Supplementary Planning Guidance. However, that document focuses primarily on new build development and therefore I find no conflict with it.

Conditions

13. The Council has not submitted a schedule of conditions that it would wish to see imposed but I have been provided with a copy of the decision notice for the approved 8 bedroom HMO. This contains conditions relating to the time period for implementing the permission, the approved plans, external materials and cycle storage. As elements of the development have already been undertaken, it is not necessary to impose a time period condition, but a condition specifying the approved plans is required, to define the terms of the permission. The external materials condition is also necessary as there are works detailed on the plans submitted that have not yet been undertaken. As the plans show that cycle storage would take place in the outdoor amenity area which is gated, I do not consider it necessary to impose a condition requiring further details of cycle storage.
14. I note that the Council's Environmental Pollution Control department has requested a condition requiring the submission of a scheme of noise insulation and that West Midlands Police request a condition requiring that doors within the development meet with a minimum security specification. However, neither conditions are a requirement of the 8 bedroom HMO permission and I do not consider that the addition of the 3 extra bedrooms justifies their inclusion in this instance.

Conclusion

15. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Graham Wraight

INSPECTOR