The Planning Inspectorate

Appeal Decision

Site visit made on 17 February 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2020

Appeal Ref: APP/P4605/W/19/3238132
19 Twyning Road, Soho, Birmingham B16 0HJ

- 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 Shiva Misra against the decision of Birmingham City Council.
- The application Ref 2019/03978/PA, dated 9 May 2019, was refused by notices dated 13 August 2019 and 1 October 2019.
- The development proposed is change of use from dwelling (Use Class C3) into 7 bedroom House in Multiple Occupation (HMO) (Sui Generis).

Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwelling (Use Class C3) into 7 bedroom House in Multiple Occupation (HMO) (Sui Generis) at 19 Twyning Road, Soho, Birmingham B16 0HJ in accordance with the terms of the application, Ref 2019/03978/PA, dated 9 May 2019, 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 the following approved plans: drawing numbered BR01 showing proposed ground floor plan and drawing numbered BR01 showing proposed first and second floor plans.

    3) The HMO hereby approved shall be occupied by a maximum of 7 persons at any one time.

Procedural Matters

2. I have used the description of development as set out on the Council's decision notice and on the appeal form in the header and decision above. It is slightly different to that set out on the application form, but more clearly describes the proposal. As it is used by both main parties, I am satisfied that no injustice would be caused by basing my assessment on the revised description.

3. On my site visit, I saw that the internal rooms of the appeal property were laid out as shown on the appeal drawings with 7 bedrooms and a communal living/dining room and kitchen. At least one of the bedrooms was vacant of furniture and uninhabited. Therefore, whilst the Council state that there was no HMO license at the date of their decision, it now appears the property is being used as a small HMO falling within Use Class C4. As it was not being occupied as a 7 bedroom HMO at the time of my visit, I have assessed the appeal on the basis that the proposal has not yet commenced.

Main Issue

4. I have received a copy of 2 Council decision notices. The first notice dated 13 August 2019 states that the Council refuses planning permission but includes no refusal reasons, whilst the second dated 1 October 2019 also refuses planning permission but includes reasons for refusal. Based on the second decision notice and other submissions, the main issue is the effect of the proposal on the character and appearance of the area with particular regard to the mix of housing and the need for a balanced community.

Reasons

5. The appeal property is similar to others on Twyning Road being a 3 storey, terraced building that faces the street. The development would not affect the external appearance of the building and whilst the nature and intensity of the proposal may differ from single family households, the property would still have a residential use. In these regards, the proposal would be in keeping with the character and appearance of the area.

6. 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 and types. The Council refer to the Strategic Housing Market Assessment as evidence for an identified need for 4 or more-bedroom houses.

7. The Council states that 5 of the 24 properties on Twyning Road are either registered as HMO's or have been sub-divided into self-contained flats, with the other properties being single-household dwellings. Also, on my visit, I saw several larger houses in the area around Twyning Road have been converted to HMO's or flats, although many properties appeared to be used as single household dwellings.

8. Within this context, I consider the provision of 1 additional HMO amongst the predominant family housing in the area would not result in an imbalanced community. In arriving at this view, I have given significant weight to the fact that the property is being used as a small HMO and there is no evidence that shows it would be converted back to a single-household dwelling if the appeal was dismissed. Consequently, the proposed development would have no significant effect on housing choice and on the balance of the local community.

9. For the above reasons, I conclude that the development would cause no significant harm to the character and appearance of the area and would not result in an unacceptable change to housing mix or to the balance of the community. Consequently, and in this regard, it would accord with policies PG3, TP27 and TP35 of the BDP, saved policies 8.23-8.25 of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework (the Framework). These all 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.

Other Matters

10. Various other concerns have been raised in respect of the proposal. There is no evidence that shows the development would result in additional noise disturbance and the Environmental Pollution Control consultee raises no

objections in this respect. Also, there is no evidence that demonstrates the proposal would lead to additional on-road parking that would cause highway problems. As the site is within walking distance of a range of facilities and public transport services, future occupiers would not be highly reliant upon car travel and ownership. Moreover, future occupiers and visitors to the proposal would have the opportunity to park on Twyning Road and the surrounding streets where there are no parking restrictions. As such, the proposal would be acceptable in these regards.

11. Concerns have been raised over incidences of anti-social behaviour in the area, which would be a cause for anxiety to local residents. However, there is no substantive evidence before me that shows the proposal would lead to an increase in such behaviour and it is noteworthy that West Midlands Police raise no objections to the proposal.

12. Also, a concern is raised that HMO's attract a transient population that means it is difficult to create a sense of community. However, there is no evidence to support such a concern, which is based upon an assumption on the behaviour of future occupiers. Consequently, I attach limited weight to this factor.

13. The proposal would fail to comply with the Council's outdoor space requirements, although it includes a private back yard area. As it would not be markedly different to the existing HMO use, the proposed development would include an appropriate outdoor space to serve the occupiers of the proposal.

14. In the absence of any substantive evidence to dismiss the appeal on any of the above grounds or complaints, the concerns raised do not override or affect my conclusions on the main issue.

Conditions

15. I have considered the list of conditions suggested by the Council, having regard to the tests set out in the Framework. Conditions detailing the plans and limiting the number of occupants are required to ensure the development is carried out in accordance with the approved plans and to provide certainty. A condition is referred to in the Council officer's report that requires provision of cycle storage. However, given the reasonably good accessibility by foot to a range of facilities, such a condition is unnecessary and unreasonable.

16. A condition is suggested by West Midlands Police that requires the installation of a CCTV system for security reasons. As the property is already occupied as a small HMO, it is unlikely that the proposal would give rise to any security or crime risk concern and so the suggested condition is unnecessary.

Conclusion

17. For these reasons, I conclude the appeal should be allowed as set out in the formal decision above.

Jonathan Edwards

INSPECTOR