



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: 03 March 2020

Appeal Ref: APP/P4605/W/19/3242214

94 Bournbrook Road, Birmingham B29 7BU

- 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 A Stavrouli against the decision of Birmingham City Council.
 - The application Ref 2019/05758/PA, dated 8 July 2019, was refused by notice dated 21 November 2019.
 - The development proposed is change of use from a dwelling house to large HMO (sui generis) and erection of a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a dwelling house to large HMO (sui generis) and erection of a single storey rear extension at 94 Bournbrook Road, Birmingham B29 7BU in accordance with the terms of the application, Ref 2019/05758/PA, dated 8 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: Arcon Architects Ltd drawing numbered 1A and drawing no 0235/001.
 - 2) The HMO hereby approved shall be occupied by a maximum of 7 persons at any one time.

Application for costs

2. An application for costs was made by Mr A Stavrouli against Birmingham City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the header and decision above is derived from that provided on the appeal form, although I have replaced the word 'retention' with 'erection' to include an act of development in respect of the extension. Whilst it is different to that on the application form, the above description is used by the appellant and I am satisfied that no party would be caused injustice by considering the appeal on this basis.
4. On my site visit, I saw that the rear extension has been constructed and that the internal layout of the property is as shown on the appeal plans. I also saw evidence that the property was being used as a HMO. As such, I have assessed the appeal on the basis that the development has commenced.

5. As well as this appeal, I have also determined a separate appeal¹ relating to the adjoining property, 96 Bournbrook Road (No 96), which is for the change of use from a dwelling house to large HMO (sui generis) and erection of a single storey rear extension. I have taken account that I have allowed this other appeal as a material planning consideration in my assessment.

Main Issue

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

Reasons

7. The appeal property is a semi-detached house in a predominantly residential area, although close to Birmingham University and Queen Elizabeth Hospital. The change of use element of the development has had no effect on the external appearance of the building and the rear extension is not visible in the street scene. Whilst the nature and intensity of the use may differ from single family households, the appeal property still provides residential accommodation and outwardly appears similar to others along the road. In these regards, the development is in keeping with the character and appearance of the area.
8. 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. Both main parties advise that due to the proximity of the university and hospital, significant numbers of dwellings in the area have been converted to HMO's and self-contained flats occupied by students and hospital workers. The Wider Selly Oak Supplementary Planning Document 2015 (WSOSPD) states that in parts of the plan area over 80% of properties are occupied by shared households and the appellant estimates that about 70% of houses fronting the south side of Bournbrook Road are in multiple occupation.
9. In general terms, the provision of an additional HMO in the area adds towards the recognised imbalance in the local housing stock towards shared households and sub-divided houses. However, in this case, the appeal property lies outside the defined Article 4 direction area as shown in the WSOSPD and so permitted development rights would allow it to be used as a small HMO with up to 6 occupiers. Given the internal works have already taken place to allow its use as a shared house, it is highly likely that the appeal property would be used as a small HMO in the event of this appeal being dismissed. The use of the site as a 7 bed HMO rather than a 6 bed HMO has no significant effect on local housing choice and so the development does not contribute towards the imbalance in the local housing stock and local community.
10. I have given consideration to the aforementioned development at No 96 and the cumulative effect of both appeal developments. However, as similar circumstances apply to No 96 in terms of permitted development rights and the fallback position of a small HMO, the cumulative effect has no bearing on my conclusions with regard to the main issue.
11. For the above reasons, I conclude that the development causes no significant harm to the character and appearance of the area and does not result in an

¹ Appeal ref no APP/P4605/W/19/3242217

unacceptable change to housing mix or to the balance of the community. Consequently, and in this regard, it accords with policies PG3 and TP27 of the BDP, saved policies 8.23-8.25 of the Birmingham Unitary Development Plan 2005, the WSOSPD 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. The refusal reason also refers to the Planning Policy Document, which relates to the Article 4 Direction Area of Selly Oak and is therefore not relevant in the determination of this appeal.

Other Matters

12. Various other concerns have been raised in respect of the development. There is no evidence before me that demonstrates the appeal scheme puts an unacceptable strain on local businesses or services, such as water supply, sewerage systems or broadband speeds. Also, there is no evidence that indicates the development causes a flood risk due to additional water run-off.
13. The development incorporates internal room space in accordance with the Council's standards and an appropriate external area that serves the needs of occupiers and provides space for waste bin storage. The site has a parking area to the front and there are no restrictions to on-road parking in the vicinity. As there is no evidence to substantiate concerns over the effect on parking and highway safety, I consider the development is acceptable in this regard.
14. There is no reason to conclude the development results in additional noise disturbance, particularly as the Environmental Pollution Control consultee raises no objections in this respect. As the extension is complete, noise and safety problems caused during building works have no bearing on my assessment of the appeal. The extension is designed so as to avoid direct overlooking onto neighbouring properties and fencing around the back garden prevents an unacceptable loss of privacy. By being set off the boundaries, the extension avoids a harmful loss of outlook for occupiers of adjoining properties.
15. Concerns are raised over a change in the appearance of the appeal property being out of character with the area. However, the appeal development includes no external building works other than the rear extension which is not prominent and is in keeping with the appearance of the house and surrounding properties.
16. Reference is made to incidences of crime and anti-social behaviour in the area. However, there is no substantive evidence before me that shows the development leads to or exacerbates such behaviour and it is noteworthy that West Midlands Police raise no objections to the development.
17. Also, a concern is raised that HMO's attract a transient population, thereby making it 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 in my assessment.
18. Comments have been made regarding the accuracy of some of the information provided with the planning application, however I find no evidence that the information before me is misleading. Also, concerns are raised that the

development has commenced prior to the granting of any planning permission, but my role is to assess the development on its planning merits and so this has no bearing on my views.

19. 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

20. I have considered the conditions as set out in summary form in the Council officer's report and those suggested by the appellant. 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. As the development has commenced, no time implementation condition is necessary. Also, given the good accessibility by foot to a range of facilities and public transport links, a condition requiring the provision of secure cycle storage is unnecessary and unreasonable.
21. A condition is suggested by West Midlands Police that requires the installation of security doors. However, there is no evidence that shows the development creates a particular security or crime risk concern and so the suggested condition is unnecessary to make the development acceptable.

Conclusion

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

Jonathan Edwards

INSPECTOR