



Appeal Decisions

Site visit made on 16 June 2020

by Simon Hand MA

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

Decision date: 26 June 2020

Appeal Ref: APP/P4605/C/18/3205008

79 Heeley Road, Selly Oak, Birmingham, B29 6DP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Inderjit Singh Panesar against an enforcement notice issued by Birmingham City Council.
 - The enforcement notice, numbered 2013/1528/ENF, was issued on 16 May 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to: (i) a large House in Multiple Occupation (Sui Generis) and (ii) a self-contained flat consisting of part ground floor and basement in the approximate area marked green on the attached plan.
 - The requirements of the notice are (i) Cease the use of the premises as a large House in Multiple Occupation (Sui Generis) and (ii) Cease the use of the ground floor and basement of the premises as a self-contained flat and return it to its original condition before the breach of planning control took place.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
 - An identical appeal APP/P4605/C/18/3205009 is proceeding in the name of Mr Sukhvinder Singh Panesar without the ground (a).
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Decision

1. The appeal is allowed insofar as it relates to the establishment of a sui generis HMO at 79 Heeley Road, Selly Oak, Birmingham, B29 6DP and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for a sui generis HMO subject to the following condition:
 - 1) The ground floor rear extension shall not be used as a bedroom to accommodate any person.
2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the self-contained flat consisting of part ground floor and basement and planning permission is refused in respect of the self-contained flat consisting of part ground floor and basement, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. The Council originally were concerned about the proliferation of large HMOs in the area and this featured as a reason for issuing the notice. This reason has subsequently been withdrawn. The Appellant has withdrawn the ground (d) appeal.

The Appeal on Ground (a)

4. This appeal now only concerns the lack of light and outlook for the two second floor front bedrooms, the ground floor bedroom in the rear extension and the ground floor lounge/kitchen and the low ceiling height and poor outlook/light for the basement flat.
5. Policy PG3 of the Birmingham Development Plan (2017) requires development to be of a high design quality and 3.14(C) of the UDP requires development to follow advice in Places for Living SPG. This provides certain standards including 12.5m between windowed elevations and opposing flank walls.
6. The two second floor bedrooms are of a reasonable size and are lit by rooflights. These are large windows that let in a good amount of light. It is not easy to have a direct view out of the windows, but they are not impossibly high if someone wanted to look out. In my view these provide adequate light and outlook for the two bedrooms.
7. The downstairs rear bedroom is in a small extension with a single window that looks out onto a flank wall. This wall is less than 1m away and creates a gloomy and oppressive feel to the room. This is clearly significantly contrary to the advice in the SPG and represents poor design contrary to PG3.
8. The kitchen is a large room and is well lit by a large light well which covers most of the ceiling. There is a small window in one wall, but this has no outlook. But while there is no outlook from this room, used as dining room as well, there is ample natural light and it would seem to me to provide reasonable conditions for the intended occupiers.
9. The separate flat consists of the original front room to the property, which is now a bedroom/sitting room. This has large windows onto the front of the property. A staircase at the back of this room leads down to the basement which contains a kitchen/diner and a separate bathroom. This is lit by a small window with a light well. The light well is very small and allows very little light in. It was even worse on my site visit as for some reason the light well was covered over by a block of concrete, but even making allowances for this natural light to the basement would be very limited, with no outlook possible. As the dining element is a habitable room this is also very poor design that does not provide a suitable living environment for the occupant of the flat. Without the use of the kitchen/diner the basement flat would be untenable as a separate dwelling.
10. The appellant argues all the rooms meet the building regulations but that is a separate issue from planning, which requires good design to enable at least adequate living conditions for the occupiers. The larger windows suggested would not solve the problems I have identified as they do not affect the rear extension or the basement.

The Appeal on Ground (f)

11. The appellant had suggested reducing the number of persons in the HMO to 7, but then, once the objection to a large HMO was withdrawn, no longer considered this was necessary. I agree that the main issue is the quality of the rooms in the HMO, and in my view the rear extension bedroom is not suitable for occupation. This can be secured by conditions rather than by limiting the

number of people, which is, in any event, a function of the number of rooms available.

The Appeal on Ground (g)

12. The appellant argues the time for compliance should be extended to the end of the academic year. The requirement is two months, which will take the time beyond the end of this current academic year so no further extension is required.

Conclusions

13. I shall issue a split decision to grant planning permission for the sui generis HMO use, with a condition preventing the use of the ground floor rear extension but dismiss the appeal on ground (a) for the self-contained flat. I shall uphold the notice but only the second requirement will remain enforceable as the first requirement will be superseded by the grant of planning permission.

Simon Hand

Inspector