
Appeal Decision

Site visit made on 29 June 2020

by J Gibson BUEP MP

an Inspector appointed by the Secretary of State

Decision date: 23 July 2020

Appeal Ref: APP/P4605/W/20/3246678

48 Asquith Road, Ward End, Birmingham B8 2HL

- 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 Mughal against the decision of Birmingham City Council.
 - The application Ref 2019/06400/PA, dated 24 July 2019, was refused by notice dated 17 December 2019.
 - The development proposed is a change of use of dwelling house (use class C3) to 8 bed HMO (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of dwelling house (use class C3) to 8 bed HMO (sui generis) at 48 Asquith Road, Ward End, Birmingham B8 2HL in accordance with the terms of the application, Ref 2019/06400/PA, dated 24 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Plans (Dwg No 001, dated 24.07.19); Proposed 8 Bed 8 Person HMO Plans (Dwg No 002, dated 24.07.19); Site and Location Plan (Dwg No 003, dated 24.07.19).
 - 3) The development hereby permitted shall be occupied by no more than eight people at any one time.

Application for costs

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

Procedural Matters

3. The existing use of the appeal site has been described by both parties as a dwelling house in use class C3. During my site visit I observed that the appeal site had been converted into a six bedroom house in multiple occupation (HMO) in use class C4, which the appellant suggested may occur using permitted development rights in their statement of case. This was not contested by the Council. Notwithstanding the description of development set out above, which is taken from the application form, I have determined the appeal on the basis that the appeal site is currently a small HMO in use class C4.

4. I note also that the additional bedrooms proposed towards the rear of the ground floor level under this appeal proposal had already been constructed. However, they did not appear to be occupied, instead being used as ancillary communal space for dining and storage.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character of the surrounding area, with specific regard to housing mix along Asquith Road; and
 - the living conditions of occupants on neighbouring properties, with regard to noise and disturbance.

Reasons

Character of the surrounding area

6. The appeal site is a three storey terrace dwelling located on the western side of Asquith Road. Asquith Road is characterised by rows of similarly designed and sized terrace dwellings, appearing to be generally occupied as family dwelling houses from the street scene. The appeal site however benefits from a larger rear garden and a sizeable rear extension compared to most properties along Asquith Road. The external appearance of the site from the street scene is not proposed to be altered under this appeal.
7. The appeal site is currently being utilised as a six bedroom HMO under permitted development rights, and is the only noted example of a HMO along Asquith Road. A wide choice of housing types, sizes and tenures are described as being an important characteristic to ensure balanced communities and sustainable neighbourhoods under Policy TP27 Birmingham Development Plan (DP) (adopted January 2017), which seeks to support the creation of sustainable neighbourhoods in accordance with Policy PG3 of the DP. With this in mind, I am not convinced that a HMO use would in isolation be detrimentally harmful to the residential character of Asquith Road as suggested. Conversely, it is my view that the proposal would positively contribute towards the housing mix of the area creating a sustainable neighbourhood that caters for all incomes and ages.
8. Saved Policies 8.23, 8.24 and 8.25 of the Birmingham Unitary Development Plan (UDP) (adopted October 2005) relate to HMO development specifically, and support this perspective by emphasising the cumulative effect that HMO development and similar uses may have on an area, as opposed to individually. These saved policies also detail the need for properties to be of an appropriate size, character, have adequate floorspace for accommodation and facilities for parking. The appellant has demonstrated that the appeal site is of an appropriate size, residential character and has adequate space to meet the relevant space standards for a HMO. There is un-restricted access to on-street parking along Asquith Road with public transport services and local centres located within close walking distance of the appeal site.
9. I am therefore satisfied that the appeal proposal would not detrimentally harm the residential character of the area and would instead be complimentary to the existing residential characteristics along Asquith Road. Accordingly, the proposed development complies with Policies PG3 and TP27 of the Birmingham

DP, saved Policies 3.14 C & D, 8.23, 8.24 and 8.25 of the Birmingham UDP, and the Specific Needs Residential Uses Supplementary Planning Guidance (SPG) (approved June 1992). These policies and guidance collectively seek, amongst other things, to ensure that development supports the creation of positive and sustainable places with a strong sense of local identity through a balanced offering of housing sizes, types and tenures to cater for all incomes and ages.

10. The Council did not identify any specific conflicts under the National Planning Policy Framework (the Framework) in their decision notice so no further assessment is considered necessary in this regard.

Living conditions

11. While the appeal site was originally described as being in class C3 use by both parties, it is evident that the current use of the appeal site is as a six bedroom HMO under use class C4. As such, the relative assessment of this main issue is whether the proposed addition of two occupants would amount to an unacceptable level of noise and disturbance.
12. The Council have specifically cited the 'increased coming and goings [of people] to and from the property' within their reason for refusal. No further comments have been provided with respect to the relative harm of a six bedroom HMO compared to an eight bedroom HMO. I observed during my site visit that Asquith Road, by virtue of its proximity to local facilities, main roads and being a dense residential street, was quite busy and subject to the frequent movements of pedestrians, cars and residents. The proposed increase of two occupants living at the appeal site would not in my view amount to a level of noise and disturbance dissimilar to that already experienced along Asquith Road, or generated by the existing occupants of the appeal site.
13. I note the suggestion that compared to a family dwelling house, the concentrated living conditions of an eight bedroom HMO may generate more noise and disturbance. However, no substantive evidence has been provided to support this claim. Based on the larger size of the appeal site and the layout shown on the proposed plans, the occupant rooms would be spaced relatively well throughout the building, with the main points of concentration being the kitchen and lounge areas located away from the main habitable areas of adjoining properties. Furthermore, I am not fundamentally satisfied with the notion that the behaviours of eight individuals living in a HMO would inherently generate significantly more noise and disturbance than a large family in a dwelling house.
14. Accordingly, I am satisfied that the proposed eight bedroom HMO would not unduly increase the level of noise and disturbance currently experienced by the occupants of neighbouring properties. It would therefore comply with Policy PG3 of the Birmingham DP, saved Policies 3.14 C & D, 8.23, 8.24 and 8.25 of the Birmingham UDP, and the Specific Needs Residential Uses SPG in this respect. The Council did not identify any specific conflicts under the Framework in their decision notice so no further assessment is considered necessary in this regard.

Other Matters

15. I note the concerns raised by interested parties regarding the effect of the proposal on the function of and safety of pedestrians along Asquith Road due to parking demand, and potential criminal activity resulting from the proposed use. No substantive evidence has been provided to substantiate these concerns and no objections were raised by the Highway Authority and the West Midlands Police respectively. I am therefore satisfied that the appeal proposal would not unacceptably exacerbate these concerns.

Conditions

16. In allowing the proposed development I have had regard to the conditions suggested by the Council, which the appellant has had the opportunity to comment on. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance (PPG) and the Framework.
17. The standard conditions setting out the time limit for implementation and the approved plans are necessary to provide certainty. A condition restricting the number of people who can occupy the HMO at any given point in time is necessary to safeguard the character of the surrounding area and the living conditions of occupants on neighbouring properties.
18. In my view the noise mitigation condition suggested by the appellant would not be warranted given the minor increase in total occupancy and the existing characteristics of Asquith Road.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

J Gibson

INSPECTOR