



Appeal Decision

Site visit made on 3 August 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2020

Appeal Ref: APP/P4605/W/20/3249188
83A Heeley Road, Birmingham B29 6EJ

- 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 Dhaliwal against the decision of Birmingham City Council.
 - The application Ref 2019/10585/PA, dated 20 December 2019, was refused by notice dated 18 February 2020.
 - The development proposed is change of use from motor vehicle garage and workshop (Use Class B2) to a 2 bedroom House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice includes a different description to that provided in the header above but the appellant advises no revision to the description has been agreed. As such, I have used the one given on the original application.

Main Issue

3. The main issue is whether the proposal would provide acceptable living conditions for future occupiers with particular regard to the amount and quality of outdoor space.

Reasons

4. Policy PG3 of the Birmingham Development Plan 2017 (BDP) states that new development should ensure that private external spaces are attractive and functional. Saved policy 3.14C of the Birmingham Unitary Development Plan 2005 (BUDP) states that development should have regard to the Council's Places for Living Supplementary Planning Guidance 2001 (SPG) which, amongst other things, provides guidelines in respect of the design and size of private amenity space. These policies and guidelines are in general accordance with the National Planning Policy Framework (the Framework) which seeks to ensure developments create places that have a high standard of amenity for users¹.
5. The appeal site is mostly occupied by the building to be converted with no meaningful outdoor area. The adjoining property, 83 Heeley Road (No 83), is also owned by the appellant and it is stated that the communal outdoor space associated with this property would be available for use by occupiers of the

¹ Paragraph 127 f) of the Framework.

proposal. A planning condition as suggested by the appellant would adequately secure the use of No 83's outdoor yard by residents of the proposal.

6. No 83 has planning permission to be used as 7 self-contained student flats and the rear yard is the only private outdoor space serving its residents. The Council has previously accepted the yard is adequate to serve the occupiers of the flats. However, it is tightly enclosed by buildings and boundary features, overlooked by windows from the adjoining property and measures well below the standard figure for flats with communal amenity space as set out in Appendix A of the SPG. While it could be used for drying clothes or parking bicycles, the yard would not provide an attractive private outdoor space for residents of the proposal to sit or relax in, particularly as it would be shared with the occupiers of No 83.
7. Some types of residential development have no associated outdoor area and the SPG² allows for limited or no private amenity space for higher density housing in some circumstances. However, no compelling design reason has been provided as to why the shared use of a limited and unattractive outdoor area would be acceptable in this case. Also, the proposal gains no support from paragraph 123 c) of the Framework which only supports a flexible approach to policies that would otherwise inhibit the efficient use of a site where acceptable living standards would be provided.
8. The student accommodation at the nearby Battery Park is different in terms of scale, form and design to the appeal proposal and includes extensive and attractive outdoor communal areas. As such, it is not comparable to the appeal scheme and so fails to affect my views on the main issue.
9. The appellant has suggested a condition restricting the occupation of the proposal to full time students. While it is likely that such residents would have different requirements for private outdoor space compared to families, local and national planning policies do not exclude student accommodation from the aim to provide high living standards. Given the particularly unattractive nature of the yard, the student occupancy restriction would not address my concerns.
10. For the above reasons, I conclude the proposal would not provide acceptable living conditions for the future occupiers in respect of the amount and quality of outdoor space. Consequently, in this regard, it would be contrary to BDP policy PG3, the SPG and BUDP policy 3.14C as well as the Framework. These all aim, amongst other things, to ensure properties provide a high standard of amenity for occupiers. BDP policy TP27 is referred to in the Council's refusal reasons but it contains no specific provisions relating to this main issue.

Other Matters

11. The proposal would provide adequate internal space to serve the needs of future residents, although this does not address or override the concerns in respect of external areas. The development would be acceptable in terms of parking, highway safety, noise, ground contamination and effect on living conditions of occupiers of neighbouring properties. However, acceptability in all of these regards is a neutral factor rather than a benefit of the proposal.
12. The re-use of the appeal property as a motor vehicle garage and workshop would seem unlikely given that it has been vacant for about 4 years. Also,

² Page 34 of the SPG

there is no evidence that such a use would have harmful effects on the living conditions of occupiers of nearby residences. As such, I attach only limited weight to the removal of a potentially harmful use from the residential area.

13. The proposal would involve the re-use of a vacant building and previously developed urban land. Also, it would improve the appearance of the property and would add to the housing stock. However, the benefits in these regards are modest given the proposed alterations would be minor and the proposal would lead to only a single 2 bedroom house in multiple occupation.
14. The points made in support of the appeal are noted but these do not either singly or in combination lead me away from my conclusion. Overall, the benefits of the proposal are modest and insufficient to outweigh the harm that would be caused in respect of the main issue.

Conclusion

15. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR