



Appeal Decision

Site visit made on 11 May 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Ref: APP/P4605/W/21/3270654

85 Cole Bank Road, Birmingham B28 8HG

- 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 Eugene Sim of Titanium Synergy 2 Ltd against the decision of Birmingham City Council.
 - The application Ref 2020/09184/PA, dated 18 November 2020, was refused by notice dated 25 January 2021.
 - The development proposed is described as 'Existing property managed by Green Leaf Housing (Social Housing or Supported living) Seeking to change from C3(b) to C4 sui generis 7 bed HMO'.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from single dwelling (Use Class C3) to 7-bed HMO (Sui Generis) at 85 Cole Bank Road, Birmingham B28 8HG in accordance with the terms of the application Ref 2020/09184/PA, dated 18 November 2020, and 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: Location Plan, ref PL01; Existing and Proposed Drawings, ref PL02.
 - 3) The premises shall only be used as a House in Multiple Occupation, accommodating no more than 7 occupants at any one time.
 - 4) Prior to the occupation of the hereby approved development, details to secure covered storage for 7 cycles within the curtilage of the property shall be submitted to, and approved in writing by the local planning authority and maintained thereafter.

Preliminary Matter

2. The description of development in the banner heading above is taken from the planning application form. This references a change of use from C3(b) to C4 and Sui Generis. However, this has been amended on the Decision Notice to the 'change of use from single dwelling (Use Class C3) to 7-bed HMO (Sui Generis)' and the Appellant has utilised the Council's revised description on their appeal form. Given that this accurately describes the proposal before me I have proceeded on this basis.

3. The Council have referred to Policy DM11 of the emerging Development Management in Birmingham Development Plan Document (the DPD) in the reasons for refusal of planning permission. The Council advise the DPD is currently the subject of examination. Be that as it may, I am not aware of the extent and nature of any objections to this policy. As such it may be subject to modifications before the DPD is adopted, and consequently I can only afford it limited weight in this decision.

Main Issues

4. The main issues are as follows:
- the effect of the proposal on the supply of dwellings particularly in respect of larger family housing;
 - the effect of the proposal on the living conditions of occupiers of neighbouring properties with regards to noise and disturbance; and
 - the effect of the proposal on future occupiers of the proposed House in Multiple Occupation (HMO) with regards to outdoor amenity space.

Reasons

Supply of larger family dwellings

5. The appeal property is an extended semi-detached property which, in planning terms, is a single family-sized home. The reason for refusal is based on Policy TP35 of the Birmingham Development Plan (the BDP) and Policy DM11 of the emerging DPD. The crux of the policy objection to the proposal centres on whether the House in Multiple Occupation (HMO) would result in the loss of an existing family dwelling to another use (i.e. it would result in the loss of residential accommodation). Whilst the wording in emerging Policy DM11 differs from TP35 (in that it refers to the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies), the Policy is still concerned with the loss of an existing use.
6. To my mind, an HMO is still a residential use, albeit the occupation of such a property is different to that of a single-family dwelling. However, that does not change the fact that it is still a residential use. With that in mind, neither planning policy quoted by the Council explicitly prevents the change of use of this residential property into an HMO.
7. The Council have drawn my attention to the Strategic Housing Market Assessment (SHMA) (2013) which sets out the need within Birmingham for larger dwellings and indicates a particular need for dwellings with 4 or more bedrooms due to a high proportion of larger households being inadequately housed. However, as the Council admit, the SHMA is somewhat dated and a more up-to-date report on housing needs (the Housing and Economic Development Needs Assessment) is being prepared. However, this has not been published and given the acknowledged age of the SHMA I can only give this limited weight in my decision.
8. Notwithstanding that, the extract of the SHMA does indicate that there is a need for larger properties, and this does weigh against the proposal. However, the housing use of the building would not be lost as an HMO is still of a residential nature.

9. I find that the proposal would accord with Policy TP35 of the BDP, which seeks, amongst other things, to ensure the creation of balanced and sustainable communities through the provision of a mix of housing. It would also accord with paragraph 8 of the National Planning Policy Framework (the Framework), which aims to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations.

Living conditions of occupiers of neighbouring properties

10. The appeal property is one half of a pair of semi-detached dwellings located on the corner of Sarehole Road and Cole Bank Road. There are other semi-detached dwellings to one side and across the road. However, based on the evidence before me I have nothing to indicate there would be an increase in noise and disturbance as a result of the change of use to an HMO. It would be unreasonable to assume people residing in such accommodation would create excessive noise or disturbances while going about their daily routines.
11. I acknowledge that the occupation of a property as an HMO does have differing living characteristics that a property occupied by a single-family unit. However, there is no evidence before me that activity associated with the use would be unsafe or significantly more intense than if it were occupied as a 7-bedroom family home. As such, the change of use would not harm the living conditions of occupiers of nearby properties, particularly given the residential nature of the proposed use.
12. Accordingly, the proposal would not harm the living conditions of occupiers of nearby residential properties with regards to noise and disturbance. It would therefore accord with Policy PG3 of the BDP and saved paragraphs 8.23-8.25 of the Birmingham Unitary Development Plan (the UDP) (2005), which seek, amongst other things, to ensure there would be no adverse effect on the amenities of the surrounding area, and on adjoining premises. The proposal would also be in accordance with the paragraph 127 of the Framework, which seeks to ensure a high standard of amenity for existing and future users.

Living conditions of occupiers of the HMO

13. The appeal property is an extended two-storey semi-detached dwelling with a parking area to the front and a garden to the rear. The Council has some adopted standards set out in paragraph 8.29 of the UDP and based upon the standards set out in the Specific Needs Residential Uses Supplementary Planning Guidance (the SPG). Whilst the proposed HMO would not meet the minimum of 112 square metres of outdoor amenity space, I note that the standards referred to by the Council do not apply to HMOs. As such the guidance has limited weight in my decision.
14. From the evidence before me, there is between 50 and 60 square metres of rear garden area available for the occupiers of the property and this space is of practical and useable shape. That is to say the space would be of a size to allow occupiers to carry out all the domestic activities one would normally expect for the HMO. In addition, the site is in proximity to various areas of public open space, notably around Sarehole Mill, which would also assist in providing further amenity space.

15. In the absence of any specific guidance from the Council on amenity space applicable to HMOs, the property would provide a suitable level of outdoor amenity space for the future occupiers of the HMO. As such the proposal would comply with Policies PG3 and TP27 of the Birmingham Development Plan 2017 (BDP), saved Paragraph 3.14C of UDP and the SPG which, amongst other matters, seek to ensure private external spaces are functional. It would also accord with paragraph 127 of the Framework which seeks to ensure a high standard of amenity for existing and future users.

Other Matters

16. The Grade II Listed Sarehole Mill is located on the opposite side of the River Cole adjacent to a car park. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving a listed building, including its setting. Given there are no external changes proposed to facilitate the change of use, I am satisfied that the setting of this listed building, and the way it is appreciated, would not be harmed as a result.

Conditions

17. In addition to the standard time condition for commencement of development, a condition is necessary to ensure that the development takes place in accordance with the approved drawings in order to provide certainty. A condition is also necessary to clarify that the maximum number of occupants shall not exceed the number applied for. Finally, in the interest of promoting sustainable transport movement to and from the site, a condition is necessary requiring the submission, approval and provision of covered parking for 7 cycles.

Conclusion

18. For the reasons given, having carefully considered all matters raised, I conclude that the appeal proposal would not be contrary to the development plan when taken as a whole. Therefore, the appeal should be allowed, and planning permission granted subject to the conditions set out.

C McDonagh

INSPECTOR