



Appeal Decision

Site Visit made on 28 June 2021

by Mark Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Appeal Ref: APP/P4605/W/21/3273683

32 Station Road, Acocks Green, Birmingham B27 6DN

- 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 Harjeet Singh Panesar against the decision of Birmingham City Council.
 - The application Ref 2021/00836/PA, dated 29 January 2021, was refused by notice dated 30 March 2021.
 - The development proposed is Change of use from Offices to House in Multiple Occupancy (Sui Generis).
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council refers to Policy DM11 of the emerging Development Plan Document (DPD) in the reasons for refusal. I understand that the DPD is still going through examination and it is unclear whether the policy referred to will be adopted in the form provided to me. As such, I can only attach limited weight to the emerging policy.

Main Issues

3. The main issues are the effect of the development proposed on:
 - the living conditions of future occupiers, having particular regard to the size of internal living space, provision of outdoor amenity space and noise and disturbance;
 - the living conditions of occupiers of neighbouring properties with regard to noise and disturbance; and
 - the residential character of the area.

Reasons

Living conditions of future occupiers

4. The appeal property is a two storey detached building which has been used most recently as offices and storage, but is currently vacant. The appeal site includes a small forecourt fronting Station Road and a larger area of hardstanding to the rear, which is used for parking, and is accessed from the road which runs between the side of the appeal property and No 30 Station Road.

5. The surrounding area is of mixed character with both residential properties and commercial uses nearby. To the north the appeal site is bounded by a dwelling, No 36 Station Road, and there are dwellings on the opposite side of Station Road to the west. The nearby commercial uses include a gym, a music venue/recording studios, and self-storage facility to the south-east, which are accessed via the road which directly adjoins the southern side of the appeal property; a boutique and a dental surgery to the south; and a commercial garage on the other side of Station Road to the north-west. I observed during my site visit that there are high levels of activity in terms of both vehicle and pedestrian movements on Station Road, leading as it does to Warwick Road, a busy high street.
6. The Specific Needs Residential Uses Supplementary Planning Guidance (SPG) indicates that where a House in Multiple Occupation (HMO) provides shared kitchen/living room and separate bedrooms, single bedrooms (one individual) should comprise an area of 6.5 sq.m and double bedrooms (two individuals) should comprise an area of 12.5 sq.m. The proposed HMO would provide 10 bedrooms with en-suite facilities over two floors with a communal kitchen/dining room at the ground floor level. Although the plans indicate double bedrooms, the appellant states that the proposal is for 10 single bedrooms.
7. The Council states that bedrooms 1, 2, 6 and 10 would range in size from 8.28 sq.m to 10.8 sq.m. These bedrooms would therefore meet the minimum floor area standard for single bedrooms, as set out in the SPG. I therefore find that the proposed bedrooms would be of sufficient size for single occupancy. Furthermore, each bedroom would be served by at least one window and would have sufficient outlook and natural light.
8. The plans indicate that the communal kitchen/dining room would be 17 sq.m, which would be unlikely to provide adequate space for both kitchen and dining facilities given the intended number of occupiers. Furthermore, this room would not be served by windows and consequently would have no outlook or natural source of daylight. There would be no separate lounge or other communal living space within the building. As a result, the layout of the proposed development would result in cramped and overcrowded accommodation which would not provide good living conditions for future occupiers.
9. The Council refer to guidance in the 'Places for Living' SPG which states that 30 sq.m of garden will be required per unit for flats and other developments providing communal amenity space. That would equate to 300 sq.m in the case of the proposed development. The plans indicate a shared area of private outdoor amenity space to the rear of the building adjacent to the parking area. The Council states that the outdoor amenity space would amount to approximately 99sq.m, which has not been disputed by the appellant. I do not consider that the size of the private outdoor space would be sufficient to cater for the likely needs of the intended number of occupiers. Furthermore, the space would be irregular in shape and confined, particularly where it would be sandwiched between the side of the building and the northern site boundary, which would reduce its useability for future residents.
10. The appellant acknowledges that the proposed private outdoor space would be inadequate, however, he refers to the availability of nearby local green space and close proximity of the site to the local centre with the amenity that is

located there. However, these are not private spaces and therefore I do not consider that these would provide sufficient mitigation for the shortage of private outdoor amenity space. Consequently, the proposal would not provide sufficient private outdoor amenity space for the future occupiers of the proposal, to the detriment of their living conditions.

11. In order to assess the impact on future occupiers arising from noise and disturbance from nearby commercial uses, the Council requested that the appellant submit a noise assessment, which was not forthcoming. As noted, the nearby commercial premises include a variety of uses, some of which, including the music venue/rehearsal studios, are likely to generate noise including during the evening, when future occupiers of the development would reasonably expect peace and quiet. I am not aware whether any restrictions apply to these premises in terms of opening hours or mitigation. Future occupiers would be likely to experience some level of noise and disturbance both within the building and in the outdoor amenity space from the nearby commercial uses and from vehicle movements along Station Road and the access road directly adjacent to the south side of the appeal property.
12. The appellant has suggested measures that could be incorporated in the design to mitigate any such impacts, including the use of acoustic air vents and a glazing specification for the replacement windows. However, in the absence of a noise assessment, I am unable to conclude whether the proposed measures would be sufficient to address potential noise and disturbance.
13. On this main issue, I conclude that the proposal would have a harmful effect on the living conditions of future occupiers due to the inadequate internal and external amenity space proposed and the potential for noise and disturbance to future occupiers. Therefore, the development proposed would be contrary to Policies PG3 and TP27 of the Birmingham Development Plan (2017) (BDP), saved paragraphs 3.14 C-D and 8.23-8.25 of the Birmingham Unitary Development Plan (2015) (UDP) and paragraph 127 of the National Planning Policy Framework (the Framework). The proposal would also be contrary to guidance contained in the 'Places for Living' SPG and Specific Needs Residential Uses SPG. Amongst other things, these seek to ensure a high standard of amenity for future users.

Living conditions of neighbouring properties

14. As I understand it, when the property was in use as offices there were up to 23 employees regularly present on site, including office based workers and travelling insurance salespersons. The previous use of the appeal property therefore generated comings and goings of staff, albeit on the evidence such activity would have been typically during daytime hours on Mondays to Fridays.
15. The proposed use of the building as an HMO would be likely to result in greater activity later into the evening and at weekends, particularly as future occupiers would have their own routines. However, I have not been provided with any substantive evidence to suggest that the development proposed would cause or exacerbate any problems with noise or disturbance when compared to the existing use of the property. The main entrance to the appeal property is on the side of the front elevation furthest away from the nearest neighbouring property, No 36. There is a reasonable gap between the appeal property and that neighbouring property with some mature trees on the northern site boundary, which effectively act as a barrier between the two properties. The

proposed private outdoor amenity space to the rear would therefore be well screened from No 36. Taking these factors into account and the existing environmental situation, as described above, I consider that any additional activity arising from the appeal proposal would not result in significant noise and disturbance to neighbouring occupiers.

16. Moreover, unacceptable levels of noise and disturbance are not the inevitable consequence of HMOs, but rather a question of individual behaviour and appropriate management.
17. On this main issue, I therefore conclude that the proposal would not be harmful to the living conditions of the neighbouring occupiers with regard to noise and disturbance. In this respect, there would be no conflict with Policy PG3 of the BDP, saved paragraphs 3.14 C-D and 8.23-8.25 of the UDP, and guidance contained in the Specific Needs Residential Uses SPG, which, amongst other things, seek to ensure that there would be no adverse effect on the amenities of neighbouring occupiers. The proposal would also not conflict with paragraph 127 of the Framework, where it seeks to ensure a high standard of amenity for existing users.

Character of the area

18. The proposed change of use would not result in the loss of a residential property since it has been used most recently for commercial purposes. Indeed, as proposed, the building would be used for residential accommodation, albeit of a more intensive form than neighbouring dwellings. Based on the evidence before me, the proposal would not result in an overconcentration of HMOs in the area.
19. Some external alterations and repairs are proposed to the building to facilitate the change of use. However, these would be of a minor nature which would not detract from the character of the building or its contribution to the street scene.
20. Given the variety of uses evident in the surrounding area and the high levels of activity, as described above, I do not find that the proposal would adversely affect the residential character of the area. The proposal would therefore accord with Policies PG3 and TP27 of the BDP, saved paragraphs 3.14 C-D and 8.23-8.25 of the UDP and paragraph 127 of the Framework, which seek to ensure that development would reinforce local character and sense of place.

Other matters

21. Interested parties have raised other concerns with the proposal, including its effect on parking provision, trees at the rear of the site, and flooding. Whilst I have had regard to all matters that have been raised, these do not alter my decision. The absence of unacceptable effects in other respects is effectively neutral in my assessment of the case, rather than weighing positively in favour of allowing the appeal.
22. I have had regard to the appellant's statement of case as well as the letters of support from nearby residents, which set out the benefits of the scheme, including the re-use of the building, the provision of housing which would be affordable, particularly for younger people, and the sustainability of the site location relative to services and facilities. However, these matters would not outweigh the harm that I have identified above.

23. I also note the appellant's concerns with the way the Council has handled the application. However, that is a procedural matter which does not impact on my assessment of the planning merits of the case.

Conclusion

24. I find that the proposal would not be harmful to the living conditions of neighbouring occupiers or the residential character of Station Road. However, for the reasons given above, I consider that the proposal would be harmful to the living conditions of future occupiers. I have considered the benefits of the proposal, however, these matters do not individually or cumulatively outweigh the harm I have identified.
25. The proposed development would conflict with the development plan as a whole and there are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons given above and having had regard to all other matters raised, the appeal is dismissed.

Mark Ollerenshaw

INSPECTOR

