



Appeal Decision

Site Visit made on 3 August 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/P4605/W/21/3270233

229 Church Hill Road, Birmingham B20 3PH

- 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 Inderjit Sangar against the decision of Birmingham City Council.
 - The application Ref 2020/04076/PA, dated 3 June 2020, was refused by notice dated 18 November 2020.
 - The development is described as Conversion from Hostel to house of multiple occupancy (HMO).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the Council's Decision Notice differs to that provided on the planning application form. I have not been provided with any evidence that the parties agreed to a change of description. I have therefore used the description provided on the application form.
3. The description refers to the development being a change of use from a Hostel. Evidence provided by the Council suggests that the lawful use of the property is C3 dwellinghouse. The appellant has not challenged this, and no evidence has been provided to substantiate the claim that the property has been in use as a Hostel. I have therefore made my decision based on the existing use of the premises being C3 dwellinghouse.
4. I observed during my visit that the property is in use as a HMO, although the internal layout had not been fully completed to reflect the submitted plans. I have made my decision taking this into account. For the avoidance of doubt, my decision is based on the proposed plans.
5. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published. I sought the views of the main parties as to the relevance of any changes; no comments were received. Whilst some content has been added and paragraph numbers changed, the substance of the Framework with respect to the main issues of this case has not. I have taken account of the revised Framework in my decision.

Main Issues

6. The main issues are:
 - the effect of the development on the character of the area;

- whether the development affects the supply/availability of family housing in the area, and
- whether the development provides satisfactory living conditions for occupiers, with regard to both internal and outdoor spaces.

Reasons

Effect on the character of the area

7. The site is in an area that is predominantly residential. The properties are mainly two and two-and-a-half-storeys. Like the appeal property, many have a third floor in the roof space, facilitated by the insertion of dormer windows and/or skylights.
8. Saved Policy 8.24 of The Birmingham Plan: Birmingham Unitary Development Plan 2005, (UDP), outlines criteria that will be referred to when determining applications for HMOs, which include the character of the area and the extent of such provision in the area. Additionally, Policy 8.25 advises that if the area already contains premises in similar use, and/or properties converted to self-contained flats, hostels, residential care homes or other non-residential uses, account will be taken of the effect of such uses upon the residential character of the area. Policies PG3, TP30 and TP27 of the Birmingham Development Plan 2031, (2017), (BDP), require new development to support the creation of mixed, balanced, and sustainable neighbourhoods, which are characterised by, among other things, a wide choice of housing sizes, types, and tenures.
9. The evidence submitted by the Council, which the appellant has not challenged, and I have no grounds for challenging either, concludes that of 97 properties within a radius of 100 m of the site, around 44% of them have been converted from dwellings to either flats, HMOs, or a non-residential use. I consider this extent of such uses to be a significant proportion of the properties assessed. Moreover, I consider the quantity of conversions from dwellings to flats, HMOs and/or commercial uses that has occurred to have eroded the mix of housing sizes, types, and tenures in the area. The erosion of this mix prevents the creation of mixed, balanced sustainable communities. I therefore conclude that the conversion of the appeal property from a large, single family dwelling to a 14-bedroom HMO further erodes the mix of housing sizes, types, and tenures in the area, which I consider to be harmful to the character of the area.
10. Consequently, the proposal does not accord with saved policies 8.24 and 8.25 of the UDP or PG3 and TP27 of the DBP. Also, the development does not accord with the social objective of the Framework to support strong, vibrant, and healthy communities by ensuring that a sufficient number and range of homes are provided to meet the needs of present and future generations.

Whether the development affects the supply/availability of family housing in the area

11. Changing the use of the property from a large, single family dwelling to a 14-bedroom HMO has removed a dwelling from the local housing stock that could accommodate a single family. As noted above, this is in addition to a significant number of dwellings that have already been converted to either flats, HMOs, or other non-residential uses in the area. The evidence provided by the Council from the Strategic Housing Market Assessment (2013), (SHMA),

which the appellant has not challenged, and I have no grounds to do so either, suggests that the greatest need is for dwellings with three, or four and more bedrooms; additionally, households for three and four persons are inadequately provided for.

12. Bearing the above factors in mind, I conclude that changing the use of a large, single family dwelling to a HMO further reduces the supply and availability of large, single family homes in the area, for which there is evidently a need. As such, the development does not accord with policies TP30 and TP35 of the BDP, saved policies 8.23-8.25 of the UDP, Policy H2 of the Aston, Newtown and Lozells Area Action Plan (2012), or the housing objectives of the Framework. Collectively, and among other things, these policies and guidance seek to make best use of the existing housing stock, deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods, taking account of, among other things, any relevant SHMA, the need for larger family accommodation and existing provision in the area.

Whether the development provides satisfactory living conditions for occupiers

Indoor space

13. The Council's Supplementary Planning Document 'Specific Needs Residential Uses...', (SNRUSPD), refers to, among other things, Houses in Multiple Occupation. Although I have not been provided with the date of its publication, the range of policy and supplementary planning documents submitted by the Council indicates that it was published at least around 20 years ago. As such, I have been cautious with the degree of weight I have attached to this guidance in reaching my decision.
14. With reference to the internal standards outlined in the SNRUSPD, I note at the outset that a living/sleeping room of 18 sqm or more could be accommodated by 2 people. Bearing this in mind, given that there would be 3 rooms in the property over 18 sqm, I consider that the HMO could have a maximum capacity of 17 people.
15. Additionally, the guidance in the SNRUSPD suggests rooms of 18 sqm or more would provide space for both sleeping and living for 2 people, and rooms of 12.5 sqm or more would provide space for both sleeping and living for one person. In addition to the 3 rooms that would be over 18 sqm, 7 rooms would be over 12.5 sqm. Hence, according to the guidance in the SNRUSPD, 10 of the rooms would be deemed to provide both sleeping and living space. Nevertheless, in my opinion, it is highly likely that occupiers of these 10 rooms would, as well as using communal kitchen, dining, and bathroom facilities, also utilise the communal living areas. The remaining 4 rooms, which would be below 12.5 sqm, would, according to the guidance in the SNRUSPD, be deemed to provide space for sleeping only.
16. For communal purposes, the development would provide one distinct living room, around 12 sqm, an area designated as combined dining, living, kitchen and utility space, around 23.5 sqm, and a distinct kitchen, around 7 sqm. These areas would all be located on the ground floor. In addition, there would be 2 rooms with shower/toilet/wash basin facilities on the ground floor and one room with shower/wash basin/toilet facilities on the first floor.

17. As the occupant of room number 7 would have to go through the distinct living room to access their bedroom, the usable floor area of the living room would be reduced to around 10 sqm. Furthermore, bearing in mind the floor space that would be taken up with kitchen and utility cupboards, sinks and domestic 'white goods', the designated kitchen area would be relatively narrow and a door from the living room would open into it; plus, a section of the combined kitchen, utility, dining, living area would also be quite narrow.
18. Notwithstanding that some occupants would have rooms that would provide some living space, I consider the provision of only one distinct living room, ie separate from a combined area, with useable space measuring around 10 sqm, would not be sufficient for the number of people that could potentially be accommodated in the building. Nor would it be sufficient at minimum for the 4 people that would have bedrooms of a size that would not provide any living space. Additionally, the layout of the kitchen, dining, living, utility areas would restrict the movement of people in these areas and the flow of people to/from them.

Outdoor space

19. The HMO would provide one area of private, outdoor space, to the rear of the property, which, taking account of the access, car parking, cycle parking and refuse storage areas, the Council suggest would be around 42 sqm. I note that the appellant suggests that the extent of outdoor space in total would be around 173 sqm. However, most of this would be to the front and side of the property, both areas of which are adjacent to, and elevated above, the passing pavements. Consequently, they would not be private.
20. I appreciate that the outdoor space that would be provided to the front and side of the property could be used by occupiers of the property as outdoor space for certain activities. However, I consider that an area of around 42 sqm private outdoor space would not be sufficient to meet all the private outdoor space needs and desires of the number of people that could potentially occupy the building.
21. For the reasons outlined above, I therefore conclude that the development would not provide satisfactory living conditions for future occupiers in respect of both internal communal living space and external private outdoor amenity space. As such, the development does not accord with paragraph 130 of the Framework which, among other things, requires development to provide living conditions of a high standard for future occupiers. Nor does the development accord with guidance in the SNRUSPD.

Other considerations

22. Decisions are to be made in accordance with the development plan unless material considerations indicate otherwise. The appellant contends that: i) the running costs of the property have been too much for 2 people, ii) the property is too large for his needs, iii) the property has been empty for many years and it has been on the market but did not sell, iv) other large properties in the area are occupied by joint families, and v) leaving the property empty and derelict would have a worse impact on the area than bringing the building back into use as a HMO. Additionally, the appellant suggests that there are 9,900 empty private sector homes in the city of Birmingham and that the Council receives

around 6000 housing applications a year from homeless people. It is asserted, therefore, that there is a need for affordable housing.

23. I appreciate the appellant considers the property is too large for his needs and that running and maintaining a property of its size could be too costly for 2 people. However, these factors in themselves do not provide justification for changing the use of the property to a HMO and therefore I attach little weight to them. I have no reason to doubt that the property was empty for some time and that it did not sell when put on the market. However, I have no details regarding why it was empty, how long it was empty for, how and for how long it was marketed or whether there was any interest shown. Consequently, I can give little weight to these matters as justification for the development.
24. I acknowledge the appellant's opinion regarding the effect on the area of an empty property compared with it being used as a HMO. However, this is an opinion; furthermore, I am not able to conclude that the only 2 options for the property are to leave it empty or use it as a HMO. Again, therefore, I attach little weight to this matter in support of the development.
25. I have no reason to doubt the figures presented by the appellant regarding the number of private sector homes empty in the City or the number of housing applications the Council receives each year from homeless people. However, the Council's housing policies collectively seek to address the housing needs of the area and ensure the living conditions of future occupiers of accommodation are satisfactory. I have no substantive evidence to suggest that the policies are not achieving their aims and objectives. Allowing the change of use would undermine the policy aims of creating mixed, balanced, and sustainable neighbourhoods, meeting the needs of larger families and providing satisfactory living conditions to future occupiers.
26. Taking account of all the above matters, I consider there are no other considerations that outweigh the harms I have identified or that indicate that a decision should not be made in accordance with the development plan.

Other Matters

27. I am aware that the decision will have implications for existing occupants of the property. However, I have had due regard to the rights conveyed within the Human Rights Act 1998, which ensures that everyone has the right to respect for, among other things, their home. However, whilst I have taken account of the personal circumstances of current occupants, I conclude that these are not matters which outweigh the significant harms I have identified. The appellant has been given a fair trial through the appeal process, and a refusal of planning permission is a proportionate and necessary approach to the legitimate aims of ensuring development creates mixed, balanced, and sustainable neighbourhoods, meets the needs of larger families and provides satisfactory living conditions for future occupiers.

Conclusion

28. For the reasons outlined, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR