



Appeal Decision

Site visit made on 11 January 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2022

Appeal Ref: APP/P4605/W/21/3282337

2 Knightstone Avenue, Birmingham B18 6PR

- 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 Michael Fong against the decision of Birmingham City Council.
 - The application Ref 2021/01941/PA, dated 4 March 2021, was refused by notice dated 17 May 2021.
 - The development proposed is erection of 2 storey side extension and change of use to 9 bedroom HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council adopted the Development Management in Birmingham Development Plan Document (the DPD) on 7 December 2021, after the start of the appeal. Saved policies 8.23-8.25 of the Birmingham Unitary Development Plan (2005) were superseded on adoption of the DPD. The main parties were given the opportunity to comment on the relevance of this to the appeal. I have had regard to any comments received and the adopted DPD in my decision.

Main Issues

3. The main issues are:
 - whether it has been demonstrated that the proposed change of use represents best use of the existing dwelling and would meet an identified need;
 - the effect of the proposed development on the character and appearance of the existing building and surrounding area; and
 - the effect of the proposed development on the living conditions of its future occupants with respect to space, and existing occupants of neighbouring properties, with respect to noise and disturbance.

Reasons

Change of Use

4. Policy TP30 of the Birmingham Development Plan (2017) (BDP) seeks to ensure that the type, size and density of new housing proposals meets local needs and contributes to the creation of 'mixed, balanced and sustainable

neighbourhoods'. That is an objective in common with the National Planning Policy Framework (the Framework), noting the provisions of paragraph 62 in that context. There is no dispute between the main parties that the proposal would not result in an overconcentration of houses in multiple occupation (HMO) in this area, i.e. a 100m radius relative to the 10% threshold set within DPD Policy DM11. No robust evidence is before me to indicate otherwise.

5. The appellant has sought to demonstrate the need for the proposed HMO in meeting a requirement for lower cost housing within a sustainable location in the city. I accept that such accommodation can play a valuable role in providing for Birmingham's substantial population of students as well as young professionals and temporary workers. I also accept that HMOs may help address issues in respect of affordability of home ownership and availability of social housing, to a certain extent.
6. However, evidence of a particular need for HMOs in Birmingham is largely anecdotal, including advice from an unnamed local estate agent. Lists are provided of approved and pending HMOs in the vicinity, as well as pending HMO applications, although the planning status of those properties is unclear (as is their relationship with the thresholds referred to in paragraph 4 above). Moreover, there is no comparable evidence as to the numbers of individuals in a similar area seeking a three bedroom property, and I note that criterion d. of DPD Policy DM11 is that conversion of buildings to HMOs should not 'result in the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies'. Evidence before me in respect of a particular need for HMOs relative to other forms of housing in Birmingham is, summarising the above, unclear.
7. Policy TP35 of the BDP requires that best use is made of existing housing stock and addresses proposals that result in the loss of housing to other uses. In this instance, the proposal would not result in the net loss of a residential unit. It would instead replace one housing type with another, which in certain respects could be seen as a more efficient or intensive use (given that an HMO is typically occupied by more individuals than a dwellinghouse). The Council's evidence, however, points to a significant shortfall in the delivery of three bedroom dwellings within the city, as is No 2 as it stands, relative to the proportion of three bedroom dwellings evidenced by the Council's Strategic Housing Market Assessment 2013.
8. There is evidence before me of a shortfall of some 1,553 three bedroom houses relative to anticipated needs between 2011-2019 (compared to oversupply in the same period of one bed properties). I accept, to some extent, that reflects that Birmingham is a 'youthful' City and responds to market dynamics. However, the loss of a three bed dwelling to a nine bedroom HMO would exacerbate that shortfall, albeit to a small degree. In my view, the cumulative effect of multiple smaller schemes such as this may be significant, and, within the terms of BDP Policy TP30, DPD Policy DM11 and paragraph 62 of the Framework, it is a legitimate planning objective to work towards balanced communities.
9. Whilst HMOs can form part of a balanced housing market, it has not been robustly demonstrated that the proposed change of use would make best use of the existing dwelling or meet an identified need. Therefore, compliance has not been demonstrated with Policy TP35 of the BDP, which seeks to make best

use of the existing dwelling stock. Moreover, it would not accord with Policy TP30 of the BDP which seeks to ensure new housing meets local needs and supports the provision of balanced neighbourhoods. It would also be contrary to paragraph 124 of the Framework, which seeks to ensure proposals make efficient use of land, taking into account the identified need for different types of housing.

Character and Appearance

10. Knightstone Avenue is a residential road that is part of a wider residential area where many of the houses appear to have been laid out at a similar time, to a similar style and typology. The appeal building is at the end of a terrace of three storey accommodation that is characterised by its simplicity of form, having a uniform flat roof, consistent pattern of fenestration and front projecting garages. Garage doors along the Avenue are of a consistent size and face on to the road. The simplicity of form and uniformity of design along each building is a positive defining feature of the character of the surrounding area.
11. The proposed replacement of the conservatory with a dining room extension and pitched roof would not be particularly visible or appear particularly intrusive from the surrounding area. However, the proposed two storey side extension would appear at odds with the uniform three storey height of the existing terrace. Further, the proposed conversion of the garage to a bedroom and replacement of the garage door with a bedroom window would be contrary to the pleasing consistency of garage doors along the terrace. These proposed changes to the side and front elevations would be particularly noticeable due to the site's corner location.
12. Consequently, the proposal would harm the character and appearance of the existing building and the surrounding area. It would therefore be contrary to Policy PG3 and Policy TP27 of the BDP which, amongst other matters, seek to ensure new development contributes to a strong sense of place. It would also be contrary to paragraph 130 of the Framework, which seeks to ensure proposals are sympathetic to local character.

Living Conditions

13. Not every proposed bedroom would meet with the minimum room size of 12.5sqm set out in the Specific Needs Residential Uses Supplementary Planning Guidance (1992) (the SPG). However, Policy DM11 of the DPD is a more recently adopted standard and applies specifically to HMOs. Criterion f. of Policy DM11 seeks to ensure HMOs provide high quality accommodation with adequate living space. For single bedrooms it specifies bedrooms should be at least 7.5sqm. It is not a matter in dispute between the main parties that the proposed bedroom sizes are adequate, in compliance with that standard. I see no reason to disagree.
14. Criterion f. also requires that HMOs provide communal living space comprising lounge, kitchen and dining space. The submitted plans show provision of a kitchen and separate dining room but without a communal living room, either as a separate room or part of open plan space. The supporting text to the policy confirms that the size of bedrooms and their ability to provide space for socialising will be taken into account when determining whether sufficient communal space is proposed. In this instance, all bedrooms exceed the standard for minimum bedroom sizes in Policy DM11 of the DPD, by a

reasonable margin. Therefore, in the specific circumstances of this case, I consider the proposed communal kitchen and dining area to be adequate.

15. Whilst the quantum of outdoor space would not be extensive, the proposal would exceed the minimum garden size of 70sqm indicated as acceptable for family housing in the Council's Places for Living Supplementary Planning Guidance (2001). Combined with the proximity of the site to public open space, I am satisfied that the private outdoor space would be sufficient to provide acceptable living conditions for its future occupants.
16. The proposed development would likely result in more comings and goings to the site. However, the front door of the property is separated from the neighbouring house by the front projecting garage. In addition, the site's location at the end of the terrace would help minimise the potential for disturbance of existing occupants of neighbouring properties. Part of the garden area would be to the side of the property, thereby positioned away from the adjoining neighbour. Therefore, the proposal would not unacceptably harm the living conditions of occupants of neighbouring properties with respect to noise and disturbance.
17. Accordingly, the proposal would comply with Policy DM11 of the DPD, which seeks to ensure HMOs provide high quality accommodation with adequate living space and protect residential amenity. Whilst the proposal would not be in full compliance with internal standards in the SPG, I have not found that this would be unacceptable.

Conclusion

18. I have not found that unacceptable harm would result in terms of living conditions of future occupants of the proposal or existing occupants of neighbouring properties. However, it has not been demonstrated that the proposed change of use would make best use of the existing dwelling or meet an identified need. I have also found that the proposal would result in considerable harm to the character and appearance of the area. As such, and having regard to the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR