



Appeal Decision

Site visit made on 18 January 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2022

Appeal Ref: APP/P4605/W/21/3283475

69 Laurel Road, Handsworth Wood, Birmingham, B21 9PQ

- 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 Simraj Estate Limited against the decision of Birmingham City Council.
 - The application Ref 2021/02709/PA, dated 24 March 2021, was refused by notice dated 19 July 2021.
 - The development proposed is for C3 dwelling change of use into Sui Generis.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwellinghouse (Use Class C3) to 11-bed HMO (Sui Generis) with external alteration to front and rear at 69 Laurel Road, Handsworth Wood, Birmingham, B21 9PQ in accordance with application, Ref 2021/02709/PA, dated 24 March 2021, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The Council's decision notice and the appellant's appeal from describe the development as "change of use from dwellinghouse (Use Class C3) to 11-bed HMO (Sui Generis) with external alteration to front and rear". As this more accurately describes the proposal I have dealt with the appeal on this basis.
3. Since the Council's decision on the planning application, the Development Management in Birmingham Development Plan Document (DMB) has been adopted, superseding the Birmingham Unitary Development Plan (adopted 2005). For the purposes of decision making the DMB now forms part of the development plan. The relevant policy of the DMB was referred to in the Council's decision notice and delegated report, and consequently no parties have been prejudiced by me having regard to this policy in reaching my decision.

Main Issue

4. The main issue is the effect of the development on the supply/availability of family housing in the area.

Reasons

5. The appeal site is located in a predominately residential area, with a variety of different house types and sizes in the vicinity. The appeal property itself is a large detached dwelling with a driveway and parking area to the front and a private garden area to the rear. The existing plans submitted show the

property to currently have 7 bedrooms, however during my site visit I noted that only 5 of these were currently in use as bedrooms.

6. Policy DM11 of the DMB outlines the matters that will be taken into consideration when determining applications for the conversion of existing dwellinghouses to Houses in Multiple Occupation (HMOs). The Policy advises that applications will be permitted subject to proposals meeting several criteria. These include ensuring that the proposal would not result in more than 10% of the properties within a 100 metre radius of the site being HMOs, a C3 family dwellinghouse being sandwiched between two HMOs or other non-family residential uses, or a continuous frontage of three or more HMOs or other non-family residential uses.
7. The Council have calculated that out of the 71 residential properties within a 100-metre radius of the site, only 2 are HMOs equating to 2.8%. These figures are not disputed by the appellant. The appeal proposal would bring this number up to 4.22%, still comfortably within the 10% bar set out within policy DM11.
8. I also note that it has been alleged that a further two properties on Laurel Road have already been converted into HMOs. Whilst the Council is unable to include these properties in any calculations as their status and use has not been confirmed, their inclusion would still not result in the 10% limit being exceeded. The proposal would also not result in a continuous frontage of three or more HMOs or non-family residential uses, or a C3 family dwellinghouse being sandwiched in between two such properties.
9. Policy DM11 also stipulates that the proposal should not result in the loss of an existing use that makes a significant and important contribution to other Council objectives, strategies and policies. The Strategic Market Housing Assessment (SHMA) undertaken in 2013 identified a need for 2, 3 and 4+ bedroom dwellings, with the greatest need being for 2 bedroom dwellings. It is the Council's view that the loss of this large family dwelling would be detrimental to one of the Council's wider objectives of creating a mixed, balanced and sustainable neighbourhood.
10. Moreover, the SHMA data is city wide and not specific to a particular area or neighbourhood. The strict application of this data would mean the conversion of any existing residential property to an HMO being resisted on the basis that it would result in the loss of a family home. That is not the intention of Policy DM11, which instead seeks to ensure that the right mix of housing types and accommodation is available in an area whilst at the same time safeguarding areas from an overconcentration of HMOs. HMOs provide a valuable source of accommodation in themselves, and not all need identified via the SHMA going forward is for accommodation of two or more bedrooms.
11. As outlined above, I have found that the proposal would comply with the development plan policy specific to the conversion of dwellinghouses to HMOs. By applying the relevant criteria under DM11 it is apparent that the existing number of HMOs in the vicinity of the appeal site is low, and that there would remain a high percentage of single family dwellings. I also observed during my site visit that there was a good mix of property types in the immediate area including detached and semi-detached properties of varying sizes, as well as flats, maisonettes and bungalows.

12. I therefore find that the proposal would comply with Policy DM11 and the relevant provisions of the National Planning Policy Framework (the Framework) which seeks to ensure that there is a sufficient supply of homes of appropriate size, type and tenure of housing needed for different groups in the community.
13. Whilst I acknowledge that the proposal would result in the loss of a family dwelling from the Council's city-wide housing supply, the SHMA identified a shortfall of 3 and 4 bed dwellings over the plan period. Given that the property concerned is particularly large consisting of 5-7 bedrooms, I do not consider its loss would have a significant impact on the identified housing need or the supply of family accommodation across the City. As a result, I consider any harm arising from its loss would be limited.
14. I therefore conclude that the proposal would not result in the presence of a high number of HMOs in the local area, nor would it result in a detrimental effect on the supply and availability of family housing in the area. It would therefore comply with Policy DM11 of the DMB which, amongst other things, seeks to support successful communities by ensuring the right mix of housing types exist in an area.

Other Matters

15. The Council has referred to a recent appeal decision which was dismissed in relation to the conversion of a single family dwelling into a 14-bedroom HMO (APP/P4605/W/21/3270233). It would appear however that the circumstances in that case were significantly different to the appeal proposal before me, with around 44% of the properties within a 100 metre radius of the site having been converted to flats, HMOs or another non-residential use. The concentration of properties that had been converted in that case were therefore far above that in this appeal, and the limit set in Policy DM11.
16. I have taken account of the concerns of those nearby and accept that the proposal would result in a greater intensity of use of No 69. However, as set out in DMB paragraph 4.16, Policy DM11 is premised on controlling the potential adverse effects of over-concentration of HMOs. Minimising effects in this respect relies also on personal conduct and effective premises management, and there are separate protection to address noise were that to amount to a nuisance.
17. In addition to the issues already covered above, other concerns raised included effect on property value, whether the HMO would be certified and the landlord an appropriate person to operate it, an increase in anti-social behaviour, and concerns over the type of people who would occupy the premises.
18. Whilst I accept that these are matters of great importance for local residents, these are concerns which are either non-planning matters or are controlled through other separate legislation and bodies such as Licencing, Environmental Health, and the Police.

Conditions

19. Subject to some minor variation and amalgamation, I have imposed six conditions put to me by the Council. In addition to the standard time limit condition, for the purposes of certainty a condition concerning the approved plans is also required. I also consider it necessary to limit the number of residents to 11 in order to control the effect of the proposal on the locality.

20. In the interests of sustainable travel and highway safety, further conditions are also imposed requiring the provision of at least one electric vehicle charging point, the submission of details for the suitable storage of cycles and motorcycles, and the submission of a scheme detailing the proposed car parking layout. Those conditions, 4 and 5, must necessarily apply before the change of use hereby permitted takes place to ensure appropriate provision is made in those respects prior to occupation.
21. Where necessary and in the interests of precision and enforceability I have altered the wording of the suggested conditions. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the terms of pre-commencement conditions.

Conclusion

22. For the reasons given above, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

David Jones

INSPECTOR

SCHEDULE OF 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: 50008-01-01, 50008-01-06 Rev A, 50008-01-05 Rev A.
- 3) The number of persons residing at the property at any one time shall not exceed 11.
- 4) Prior to the first occupation of the development hereby permitted, details of the provision for the secure, and where appropriate, covered storage for cycles and motorcycles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 5) Prior to the first occupation of the development hereby permitted, details of the proposed car parking layout shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the provision of at least one charging point for electric vehicles with its own dedicated parking space. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained free of any impediment.