
Appeal Decision

Site visit made on 15 February 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday 10 March 2022

Appeal Ref: APP/P4605/W/21/3282491

21 Gillott Road, Ladywood, Birmingham B16 0EU

- 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 Berry against the decision of Birmingham City Council.
 - The application Ref 2021/02596/PA, dated 22 March 2021, was refused by notice dated 8 June 2021.
 - The development is described as a 'Retrospective planning permission application for change of use from dwellinghouse (Use Class C3) to Large House in Multiple Occupation (Use Class Sui Generis). The house has been in use as an HMO since at least 2012, and documentation including Birmingham City Council HMO licensing documentation to that effect has been attached.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice partly refers to saved policies in the Birmingham Unitary Development Plan (adopted 2005). These policies have now been replaced by the Birmingham Development Plan (2017) (BDP) and the Development Management in Birmingham Development Plan Document (2021) (DPD). The main parties are aware of this and have had the opportunity to comment. I have determined the appeal in regard to the development plan at the time.

Main Issues

3. The main issues are 1) the effect of the development on the City's stock of family sized housing, and 2) whether the development represents an over-concentration of HMOs in the area.

Reasons

City's stock of family sized housing

4. The appeal site comprises of a traditional 3 storey semi-detached house on Gillott Road. It is located within a mature residential area consisting of mainly traditional 3 storey properties with various architectural designs. The appeal property is typical of the scale and type of properties in the surrounding area.
5. The appeal seeks retrospective planning consent for the change of use from a dwelling to a large House in Multiple Occupation (HMO). There is some dispute between the main parties as to whether the appeal property contains 6 or 8 bedrooms. Nevertheless, it is a property of 4 or more bedrooms and would be

of a type and size that could accommodate a family. As such, the property, prior to its unauthorised conversion to an HMO, was a large family sized dwelling of 4 bedrooms or more. In the Strategic Housing Market Assessment (SHMA) (2013) this type of larger property is grouped within the four or more bedrooms category.

6. Whilst the development would not result in the total loss of residential accommodation, it would result in a loss of a family sized dwelling of 4 or more bedrooms. According to the Officer's Report, Table 14.6 (pg. 105) of the SHMA shows that the highest net change in the number of homes needed to 2031 is in the four or more bedroom category at 35.2%. The SHMA identifies a significant need for 4 or more bedroom housing in the city.
7. Policy TP35 of the BDP aims to make the best use of existing housing stock to prevent the loss of residential accommodation unless there are good planning justifications or an identified social need for an alternative use.
8. I have not been presented with any evidence to justify the loss of a large family sized dwelling of 4 or more bedrooms. The change of use from a large family sized dwelling to an HMO would result in the loss of a family sized home that makes an important contribution to the city's housing stock. This would be harmful to the local area.
9. Consequently, the development fails to accord with Policy TP35 of the BDP, as it would result in the loss of accommodation for which the evidence suggests an undersupply and an identified need for within the city. The development also fails to accord with Policy TP30 of the BDP, which requires proposals for housing to meet local needs and to take account of the SHMA.
10. In addition, the development also fails to accord with Policy DM11 of the DPD, which seeks to ensure proposals for HMOs do not result in the loss of existing uses that make an important contribution.

Over-concentration of HMOs

11. The main parties are in dispute over the number of HMOs within a 100m radius of the appeal site. The appellant claims there are 8 HMO properties within a 100m radius, whereas the Council identifies 12. In my judgement, the Council's calculation represents a more accurate record of the number of HMO properties within a 100m radius. This is because the Council's evidence is based on their records which include HMO license records, properties with Use Class C4 or Sui Generis planning permissions, or issued with a Certificate of Lawful Development, declared HMOs recorded in the 12 month notice period for the city-wide Article 4 Direction 2019, as well as council tax records. This level of information provides a comprehensive record of the HMOs within the nearby area of the appeal site and is also consistent with the HMO sources listed in Policy DM11 (para 4.22) of the DPD.
12. Therefore, a total of 12 HMOs out of approximately 89 residential properties within a 100m radius of the appeal site would represent 13.5% of properties in HMO use. The development exceeds the 10% threshold specified in Policy DM11 of the DPD and represents an over-concentration of HMOs which would be unacceptable and harmful to the local area. An over-concentration of HMOs would cause a negative effect on the balance and mix of households in a community, which would be contrary to Policy TP30 of the BPD.

13. I have not been provided with any evidence to demonstrate whether the development meets an identified social need. Consequently, the development is in conflict with Policy DM11 of the DPD, which seeks to ensure harmful concentrations of HMOs within a 100m radius do not arise by setting a threshold of 10%. The development also fails to accord with Policies TP30 and TP35 of the BDP, which seek to achieve mixed and balanced communities and prevent the loss of the existing housing stock.

Other Matters

14. The appellant claims the property has operated as an HMO for a number of years. However, it would have been operating as an unauthorised HMO and I therefore attribute little weight to this claim, given that this appeal is against a refusal of planning permission. It is of course open to the appellant to apply to the City Council for a Certificate of Lawful Existing Use.
15. The appellant argues that there is a need for student accommodation and has also drawn my attention to a property search of 6+ bedroom houses for sale within the local area. In my view, this does not negate the identified need for homes of 4 bedrooms or more in the Council's SHMA evidence and the loss of an existing family sized home.
16. Whilst the development would not harm the living conditions of future occupiers or neighbouring occupants, is easily accessible by public transport, and appears to meet the relevant housing space standards, these considerations do not outweigh the conflict with the development plan insofar as it has not been demonstrated that there is an identified social need for an HMO.
17. The appellant argues an HMO would make the most efficient use of the floor space and that the property is too large for any other use other than an HMO. However, no substantive evidence has been submitted to support these claims.
18. Although Regulatory Services and the West Midlands Police have not objected to the development, the lack of objections is a neutral matter that does not weigh in favour of the development.
19. The appellant refers to Policy TP27 of the BDP in their grounds of appeal. However, this policy considers matters of sustainable neighbourhoods for new residential development. As such, I do not consider it to be relevant to the main issues.
20. My attention has been drawn to an appeal decision. Although there are some similarities between the appeal quoted to me and this one, I do not know the planning circumstances that led to the decision. In any event, I have determined this appeal on its own merits.

Conclusion

21. For the reasons given above, taking the development plan as a whole, there are no considerations that would warrant taking a decision otherwise than in accordance with the development plan. I conclude that the appeal should be dismissed.

Helen Smith

INSPECTOR