



Appeal Decision

Site visit made on 29 March 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday 13 May 2022

Appeal Ref: APP/P4605/W/21/3289018

155 College Road, Springfield, Birmingham B13 9LJ

- 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 Waseem Khan (Kinship Housing and Support) against the decision of Birmingham City Council.
 - The application Ref 2021/04953/PA, dated 31 May 2021, was refused by notice dated 27 August 2021.
 - The development proposed is described as retrospective change of use to supported accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice refers to saved policies in the Birmingham Unitary Development Plan (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 These policies have now been replaced by the Birmingham Development Plan (2017) (BDP), and the Development Management in Birmingham Development Plan Document (2021) (DPD).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.
3. The Council received amended plans during the application process. These amended plans made changes to the ground floor layout to include a lounge area and a staff office by removing the dining area and utility room. I have dealt with the appeal on that basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character of the area and the living conditions of neighbouring occupants, with regard to noise and disturbance; and,
 - whether the proposal provides satisfactory living conditions for its occupants.

Reasons

Character and Appearance and Living Conditions of Neighbouring Occupants

5. The appeal site comprises a traditional three-storey terraced property on College Road. It is located within a mature residential area consisting of mainly

traditional properties with various architectural designs. The appeal property is typical of the scale and type of properties along College Road.

6. The proposal seeks retrospective planning permission for an 8-person supported living accommodation at 155 College Road. The Council has confirmed that they are aware of at least 13 other properties in similar use as supported living accommodation on College Road, as well as at least 5 HMOs within the same road frontage.
7. The Council is concerned that the proposed use at the appeal site, combined with similar uses nearby, would cause cumulative harm to the local area. It is argued that the proposal represents an over-concentration of such use within College Road, which negatively impacts upon the character and appearance of the area. The Council also considers that the change of use to a supported living accommodation would result in a material increase in noise and disturbance for neighbouring occupants. It is claimed that this would be caused by the comings and goings and the everyday activity of residents and staff at No 155.
8. However, the Council has not provided substantive evidence to support their noise and disturbance assertions. Although there are objections to the proposal, I have not been provided with any evidence of historical complaints connected to No 155.
9. Concern has also been raised regarding anti-social behaviour and drug abuse in the area. However, there is no substantive evidence that there would be a material difference from the existing situation.
10. At the time of my site visit, there was no obvious difference between the standard of maintenance of the appeal property and other properties in the nearby area. There was no noticeable over-spill of refuse and litter at No 155. In the wider terrace, and along College Road, there did not appear to be an abundance of 'Rooms to Let' signs.
11. Based upon the evidence before me, and what I saw at my site visit, I am not persuaded that the change of use to supported living accommodation would cause demonstrable harm to the character and appearance of the area. In addition, I am not persuaded that the use would harmfully impact upon the living conditions of the neighbouring occupiers.
12. For the reasons above, the proposal would not be detrimental to the character of the area and would not cause significant harm to the living conditions of neighbouring occupants. Therefore, in respect of this main issue, the proposal would not conflict with Policy PG3 of the BDP and Policies DM2, DM10 and DM12 of the DPD. Taken together, and amongst other things, these policies seek to ensure that new development contributes to a strong sense of place and does not adversely affect the amenities of neighbouring occupiers.
13. In addition, the proposal would accord with the Council's Specific Needs Residential Uses SPG, which provides guidance to avoid unacceptable adverse effects on neighbouring amenity and character and appearance of an area.
14. The Council refer to Policy GA1 of the BDP (2017) in their reason for refusal. However, this policy refers to the city centre, whereas the site is located outside the boundary of the city centre. As such, I do not consider Policy GA1 to be relevant to the main issues.

Living Conditions of Occupants

15. Each of the 8 bedrooms within the appeal property would have bedroom floorspace in excess of the Government's Technical Housing Standards (March 2015) minimum gross internal floor area of 7.5sqm and at least 2.15m wide for a single bedroom. However, the proposal does not provide sufficient internal communal space for an 8-bedroomed property. The proposal has only one small lounge room and one small kitchen area at ground floor level, providing a total communal area of approximately 24sqm.
16. The size of the communal kitchen space is inadequate to serve the needs of 8 occupants and up to 3 support staff, as there would be a lack of space for residents and staff to prepare meals. Although it is unlikely that all 8 occupants and the additional support staff would use the kitchen at the same time, there would still be peak times during the day when demand for its use intensifies, such as at breakfast, lunch and evening dinner times. The creation of a staff office has also led to the loss of the utility room, which was previously attached to the kitchen.
17. The lounge room is approximately 13.7sqm. The size of the room would not provide sufficient space for all 8 occupants to sit in at the same time and relax together. Although it could accommodate a smaller group, this communal living space is limited and only available on the ground floor. As a consequence, it is likely that occupants would spend more time in their bedrooms. Visitors to the property, such as the support/medical staff, or visits from family members, would exacerbate the issue.
18. The appellant also refers to the Council's general guide for calculating a combined living/dining/kitchen area and states that the minimum for 8-persons is 21.5sqm. However, the proposal's internal layout does not include a combined living/dining/kitchen area, as the amended floor plan shows two separate areas for the kitchen and lounge and does not include a dining room. The addition of the support staff would also increase the usage. It is also noted that the only access to the rear garden is from the kitchen, which would increase the footfall within the kitchen area. Consequently, the proposal would not be sufficiently functional to meet the occupiers' typical day to day needs based on the occupation level of the property.
19. The appellant makes reference to the bedroom spaces being in excess of the Council's minimum standard (7.5sqm), and that less communal space is therefore required for the use of residents. However, the lack of satisfactory internal communal space would increase the time occupants would spend in their bedrooms. As such, the use of the building would be more intensive compared to that of a typical family home. Therefore, the provision of internal communal space for 8 occupants is unsatisfactory, which creates poor living conditions for the occupants at No 155.
20. No 155 does not make adequate provision for outdoor amenity space for its occupants. The Council's Specific Needs Residential Uses SPG and paragraph 4.31 of Policy DM12 of the DPD states that specialist accommodation should provide a minimum of 16sqm of outdoor amenity space per resident. As the proposal only provides provision for approximately 104sqm outdoor amenity space in its rear garden, this would fall short of the SPG requirement by 24sqm, based on 8 residents. Although there is a small forecourt area to the front of the property, this would not represent private usable outdoor amenity

space. The proposal would therefore not provide adequate living conditions for the occupants of No 155, having regard to the lack of outdoor amenity space.

21. The appellant has drawn my attention to the property being let through a housing association, which requires the premises to meet their specific requirements. Nevertheless, the planning system has a wider responsibility for ensuring that the quality of accommodation provides satisfactory living conditions for its occupants.
22. For the above reasons, the proposal would fail to accord with Policy PG3 of the BDP and Policies DM2 and DM12 of the DPD. Taken together, and amongst other things, these policies seek to ensure that new development does not adversely affect the amenities of occupiers and provides sufficient usable outdoor space. The proposal would also fall short of the requirements of the Council's Specific Needs Residential Uses SPG, in terms of outdoor amenity space.
23. The proposal would also fail to accord with paragraph 130 of the National Planning Policy Framework (2021) where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

Other Matters

24. The appellant claims that the property has operated as a supported living accommodation for 8 residents since 2005. However, it would have been operating as an unauthorised use. 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 Council for a Certificate of Lawful Existing Use.
25. The appellant has questioned the use of Policy PG3 of the BDP. However, as the development has not been lawfully established, as no planning permission has been granted, it constitutes new development and therefore Policy PG3 is relevant.
26. Although the West Midlands Police and the Council's Regulatory Services have not objected to the development, the lack of objections is a neutral matter that does not weigh in favour of the development.
27. Whilst the development is easily accessible by public transport, is located close to facilities, and there are no highway safety issues, these considerations do not outweigh the conflict with the development plan insofar as it has not been demonstrated that there are satisfactory living conditions for its occupants.
28. Whilst the appeal site is near to Sparkhill Park, Moseley Bog and Attock cricket club, this benefit does not outweigh the harm identified.

Conclusion

29. I have found no harm in respect of the effect of the development on the character of the area and the living conditions of neighbouring occupants, with regard to noise and disturbance. However, this is a neutral effect and does not outweigh the harm resulting from the development's failure to provide satisfactory living conditions for its occupants. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy

of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

Helen Smith

INSPECTOR