



Appeal Decision

Site visit made on 5 July 2022

by David Nicholson RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 4 August 2022

Appeal Ref: APP/P4605/W/20/3262969

Elite House, 95 Stockfield Road, Birmingham B27 6AT

- 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 Bashir against the decision of Birmingham City Council.
 - The application Ref. 2019/04481/PA, dated 17 July 2019, was refused by notice dated 2 July 2020 (confirmed by email dated 9 December 2020).
 - The development proposed is: Change of use from offices (Use Class B1) to hostel incorporating 41 no. units and ancillary facilities (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for: Change of use from offices (Use Class B1) to hostel incorporating 41 no. units and ancillary facilities (sui generis) at Elite House, Stockfield Road, Birmingham B27 6AT in accordance with the terms of the application, Ref. 2019/04481/PA, dated 17 July 2019, subject to the conditions in the attached Schedule.

Application for Costs

2. An application for costs was made by Mr Bashir against Birmingham City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effects of the internal facilities on the living conditions for future residents;
 - the effects of the form of development on the character and amenity of the area; and,
 - whether the scale and location would result in an increased fear of crime and anti-social behaviour.

Reasons

4. Elite House is a vacant two storey office building, with a basement, fronting onto Stockfield Road. It has been granted Prior Approval for Change of use from offices (Use Class B1[a]) to residential (Use Class C3)¹ and planning permission for a second floor extension and apartments in the grounds of the premises². The premises have been vacant for some time.

¹ Approved subject to conditions Ref. 2016/10532/PA06 dated 6 February 2017.

² 2017/02044/PA dated 28 July 2017

5. The building would be managed for social housing³ of males over the age of 25, and classified as low risk, in individual units with en-suite shower rooms. There would be one communal dining/kitchen area on each floor. While the Officer's Report was satisfied that the internal standards would accord with guidance in the Special Needs Residential Uses Supplementary Planning Guidance, concern remained that the communal kitchen/dining room area, and other communal spaces, were both limited and restricted for the number of residents.
6. I acknowledge that it would be desirable for future residents to have a greater provision of shared amenity space, and that the layout is less than ideal with the risk of challenging situations between occupiers. These matters weigh against the proposals. On the other hand, the Appellant has greatly reduced the number of proposed residents and claimed that a scheme with fewer occupants would not be viable. If this appeal were rejected, I therefore doubt that an improved scheme would come forward. On this issue I find that there would be some harm which needs to be weighed in the planning balance.
7. There would be few changes to the outward appearance of the building, and these could be controlled by conditions. Some additional planting should be considered a modest benefit. The Council's representations on amenity makes reference to more intensive occupation, with more comings and goings, but provides little evidence of how, in this location, this would necessarily lead to significant harm to existing residents.
8. Related to this, the Council and neighbours have expressed concerns with regard to anti-social behaviour and crime, and details of a local police incident was attached to an objection. However, while I acknowledge that both the size, some 41 units, and the location, close to existing residential areas, have the potential to engender fear, I have little evidence that rejecting the scheme would reduce future problems, rather than just move any difficulties elsewhere, and the intended occupier has set out how he hopes the scheme would operate to avoid undue nuisance. I consider that fear alone should not be a justification for refusal and therefore give limited weight to concerns over the effect on the character and amenity of the area, or whether the scheme would result in an increased fear of crime and anti-social behaviour.
9. On all these issues, I find that the proposals would not cause demonstrable harm to the residential amenity of future residents or existing occupiers of nearby properties and that, on balance, they would not conflict with Policy PG3 of the Birmingham Development Plan (BDP) 2017, which requires that new development should be designed to a high standard, or with relevant policy in the National Planning Policy Framework 2019.
10. Given the existing planning consents, the Council has not objected to the principle of residential use on the edge of the core employment area, despite the loss of commercial/industrial space, and I find that the scheme would meet the exceptional test and so not conflict with BDP Policy TP19. By providing much needed social housing, the scheme is supported by Policies TP27 and TP30 which expect housing to deliver a range of dwellings to meet local need and support the creation of mixed and balanced neighbourhoods.

³ The Appellant advised that this would be Reliance Social Housing, a Registered Provider with Homes England operating Exempt Accommodation Services and which works with Birmingham City Council with schemes designed to offer accommodation to vulnerable homeless non priority individuals who require care and support in order to maintain their tenancies. This could be managed by a condition.

11. Overall, I find that the benefits of additional residential accommodation, and improved landscaping, would outweigh any limitations regarding internal facilities, and any concerns over the character and amenity of the area, and any increased fear of crime and anti-social behaviour.
12. For the reasons given above I conclude that the appeal should be allowed.

Conditions

13. Apart from minor changes, for clarity and brevity, for the reasons given by the Council, I am satisfied that the suggested conditions would meet the relevant policy tests and that they should be imposed.

Other matters

14. I have noted concerns, including safety and security in the vicinity, whether the proposed management company has the necessary experience or capacity to manage the hostel, security of tenure for the residents, noise and disturbance from the external amenity space, the cumulative effect of vulnerable people in the area, and the quality of design and sustainability, but find that none of these is sufficient to outweigh the benefits of additional residential accommodation in the area.

Conclusion

15. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

David Nicholson

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: In order to comply with Section 91 of the Town and Country Planning Act and the NPPF.

2. The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers 879 5, 879 6 REV D, 879 7 REV C and the ventilation detailing.

Reason: In order to define the permission in accordance with Policy PG3 of the BDP 2017 and the NPPF.

3. The proposed development shall be managed strictly in accordance with the Management Plan and this shall be reviewed every 12 months; any changes to the plan shall be submitted to and agreed in writing with the LPA.

Reason: to ensure the amenities of the surrounding area in accordance with policy PG3 of the Birmingham Plan 2017 and the NPPF.

4. No occupation under this permission shall take place until the following components of a site assessment and, if required, a remediation scheme to deal with the risks associated with contamination of the site for the intended use, has been submitted to and approved, in writing, by the LPA:

- 1) A preliminary risk assessment, which has identified: all previous uses; potential contaminants associated with those uses; and a conceptual model of the site indicating sources, pathways and receptors for potentially unacceptable risks arising from contamination at the site.

- 2) A site investigation scheme, based on condition 1), to provide information for a detailed risk assessment of the risk to all receptors that may be affected, including those off site.

- 3) If contamination is found to be present, and assessed as an unacceptable risk to human health and safety and to the environment, an options appraisal and remediation strategy shall be submitted giving full details of the remediation measures required and how they are to be undertaken, a timetable of works and site management procedures.

- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in condition 3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the LPA. The scheme shall be implemented as approved and must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 (and subsequent legislation) in relation to the intended use of the land after remediation.

No occupation under this permission shall take place until a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to and approved, in writing, by the LPA. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include

a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the LPA.

Reason: In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the BDP 2017 and the NPPF.

5. No occupation under this permission shall take place until a scheme of noise insulation has been implemented in accordance with details, to be approved in writing by the LPA, to ensure that all windows, any other glazed areas and external doors to habitable rooms shall provide a Weighted Sound Reduction Index ($R_w + C_{tr}$) of at least 30dB. Any ventilation on this elevation to habitable rooms shall be provided by means of acoustic vents achieving a Weighted Element Normalised Level Difference ($D_{n,e,w} + C_{tr}$) of at least 40dB.

Reason: In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the BDP 2017 and the NPPF.

6. No occupation under this permission shall take place until details of hard and/or soft landscape works have been submitted to and approved in writing by the LPA and these works shall be carried out as approved. These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials and annotated planting plans to a scale of 1:50, showing, where used, locations of individually planted trees, shrubs, hedges, and areas of grass. Within ornamental planting areas, plans should be sufficiently detailed to show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs and details of the proposed planting implementation programme. All hard and/or soft landscape works shall be implemented in accordance with the approved details. The works shall be implemented prior to the occupation of the development and thereafter maintained. Any trees or shrubs which, within a period of two years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.

Reason: In order to secure the satisfactory development of the application site, ensure a high quality of external environment and reinforce local landscape character in accordance with Policies PG3, TP3 and TP7 of the BDP 2017 and saved Paragraph 3.14 of the Birmingham UDP 2005.

7. Details of the materials to be used for hard and paved surfacing shall be submitted to and approved in writing by the LPA prior to their use. The development shall be implemented in accordance with the approved details and thereafter maintained.

Reason: In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the BDP 2017 and the NPPF.

8. Details of the proposed boundary treatment of the site shall be submitted to and approved in writing by the LPA prior to its installation. These details shall include plans showing the locations of existing, retained and proposed new boundary treatments and scaled drawings indicating the positions, height, design, materials, type and colour of proposed new boundary treatments. The approved scheme shall be implemented before occupation under this permission and shall be retained thereafter.

Reason: In order to secure the satisfactory development of the application site in accordance with Policies PG3 and TP7 of the BDP 2017 and the NPPF.

9. No fewer than 10% of non-dedicated parking spaces shall be provided with electric vehicle charging points. The charging points shall be available for use prior to first occupation of the development hereby approved and shall be retained and maintained thereafter.

Reason: In order to secure the satisfactory development of the application site in accordance with Policy TP5 of the BDP and the NPPF

10. No occupation under this permission shall take place until vehicle parking has been marked and laid out in accordance with the approved details and that area shall not thereafter be used for any purpose other than parking, loading and unloading of vehicles.

Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Policies PG3 and TP44 of the BDP 2017, the Car Parking Guidelines SPD and the NPPF

11. 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 LPA prior to first occupation of the development. Provision shall thereafter be implemented, retained and maintained in accordance with the approved details.

Reason: In order to secure the satisfactory development of the application site in the interests of sustainable travel options, in accordance with Policies PG3, TP40 and TP44 of the BDP 2017 and the NPPF.

12. No occupation under this permission shall take place until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the LPA. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution

13. No occupation under this permission shall take place until the following architectural details have been submitted to and approved in writing by the LPA:

- Windows design and materials: headers, sills, glazing bars, reveal depth.
- External doors design and materials: reveal depth and details of fan lights, door surrounds, canopies and/or porches.
- Building facades & roof materials and detailing: decorative features, eaves treatment, chimneys, attached vents, flues and utility equipment.
- Rainwater goods design, materials and position.

The development shall be implemented in accordance with the details approved and thereafter retained.

Reason: In order to secure the satisfactory development of the application site in accordance with the BDP and the NPPF.