



Appeal Decision

Site visit made on 1 August 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2022

Appeal Ref: APP/P4605/W/22/3296115

184 Jiggins Lane, Birmingham, B32 3EN

- 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 KML Group against the decision of Birmingham City Council.
 - The application Ref 2021/08593/PA, dated 4 October 2021, was refused by notice dated 30 November 2021.
 - The development proposed is the erection of a first-floor extension to facilitate three additional HMO rooms.
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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 it issued its decision on the application. The reasons for refusal make reference to the emerging policies and the appeal process has afforded suitable opportunity for comment from the main parties on the implications of that policy change.

Main Issues

3. The main issues are;
 - Whether the proposal would provide acceptable living conditions for future residents, with particular reference to outdoor space;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of nearby residents, with particular reference to noise.

Reasons

Living Conditions for Future Residents

4. The proposed development would increase the number of bedrooms within the building to 11. The submission denotes an area of turf and hardstanding to the rear as amenity space. The area to the front and side of the host building provides parking.
5. The Council's Special Needs Residential Uses Supplementary Planning Guide (1992) (SPG) sets out that 16 square metres of outdoors amenity space per resident should be provided, separate from any parking/access areas. The appellant has argued that the SPG is out of date, and the Council are currently

progressing a new document for HMOs that denotes an area of 10 square metres per resident for outdoor amenity space. I note the SPG was the current guidance when the Council assessed the original application. As such, I find it still carries weight in the determination of this appeal. I have not been provided with a copy of the Council's emerging guidance for HMOs and the Council have confirmed that it has not been adopted. As such, I afford this little weight.

6. From the submitted evidence, I note the private outdoor amenity space at the property measures a total of around 140 square metres. The outdoor space at Senneleys Park, identified by the appellant, is discounted as it is not private space. As such, the provision of private outdoor amenity space is significantly below the level set in the SPG, approximately 176 square metres for 11 residents, and therefore contrary to guidance. As a result, in this regard, the proposal would result in poor residential amenity for future occupiers.
7. The proposed development would have an unacceptable effect upon the living conditions of future occupiers. This would be contrary to Policies PG3 and TP27 of the Birmingham Development Plan (2017) (DP) and the guidance contained within the SPG and Places for Living Supplementary Planning Guidance (2001) (PFL). These seek to ensure that adequate private space is provided and that these spaces are functional and inclusive. The proposal is also at odds with the advice set out in paragraph 130 of the National Planning Policy Framework (Framework) that seeks high standards of amenity for existing and future users.

Character and Appearance

8. The appeal building is a large detached two-storey building with single storey side and rear extension. There is a spacious feel to the street scene which contributes positively to its character and appearance. It is made up of evenly spaced pairs of semi detached dwellings on the southern side of Jiggins Lane and detached single and two-storey dwellings on the northern side. Dwellings are set back behind front gardens, parking areas and wide pavements and grass verges.
9. Whilst the area is predominantly residential, opposite the appeal site is a commercial garage and to the rear a shopping arcade. The appeal site is a corner plot on the southern side of Jiggins Lane and is unique in that it is a substantial detached property at the end of a row of pairs of semi-detached dwellings.
10. The proposed development would see a first floor constructed above an existing single storey extension. The proposed development would incorporate a set-back from the main front elevation and a drop from the ridge line of the roof. This approach results in the proposed development appearing subordinate to the host building. Whilst the existing building is in a prominent location, the subserviency of the proposed extension would not result in building as a whole appearing unduly prominent in the street scene.
11. I therefore conclude that the proposed development would not have a harmful impact on the character and appearance of the area. It would comply with DP Policy PG3, and the guidance contained within the Extending Your Home Supplementary Planning Document (2017) (SPD) which seek, amongst other things, to ensure that development is designed to a high standard and respects the character and appearance of the area. The proposed development would

also comply with paragraph 130 of the Framework which seeks to ensure that developments are visually attractive and sympathetic to local character.

Living Conditions of Neighbouring Residents

12. The occupation of the property by residents independently of one another, is likely to give rise to a wide variation in movement patterns. Furthermore, it is likely that there could be a significant number of visitors, associated with the unrelated identities of the occupiers. The pattern of occupation could potentially give rise to a large number of comings and goings to and from the property, and potentially at times when neighbouring occupiers would reasonably seek to enjoy the peace and quiet of their homes.
13. Despite the appeal property being located in an area where properties are generally occupied by families, a large single household could occupy the appeal property and potentially generate significant levels of activity and noise. This could include some variation in pattern and activity undertaken by different generations of a family, for example parents going to work and separate activities associated with children and their schooling.
14. The Council considers that 3 additional bedrooms would result in a material increase in noise and disturbance for neighbouring residents. However, the Council has provided no substantive evidence to support their noise and disturbance assertions. This is despite there being an existing use for an 8-bedroom HMO at the appeal site. I have not been directed to any record of complaints. Furthermore, there is a lack of any local or Environmental Health objection to the application or appeal in relation to noise and disturbance.
15. I therefore conclude that the proposed development would not cause significant harm to the living conditions of adjoining occupants. It would comply with DP Policy PG3 and Policy DM11 of the Development Management in Birmingham Development Plan Document (2021) (DMB) which seek, amongst other things, to ensure that development is designed to a high standard and does not result in unacceptable adverse cumulative impacts on amenity. The proposed development would also comply with paragraph 130 of the Framework which seeks to ensure that developments provide high standards of amenity for existing users.

Other Matters

16. I have had regard to comments made by a local resident regarding the potential for the proposed development to overlook their property, but these matters have not affected my conclusions on the main issues.

Conclusion

17. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR