



Appeal Decision

Site visit made on 25 October 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Appeal Ref: APP/P4605/W/22/3300940

31 Shepherds Gardens, Birmingham B15 1HB

- 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 Ms Yanmei Lin against the decision of Birmingham City Council.
 - The application Ref 2022/01175/PA, dated 11 February 2022, was refused by notice dated 8 April 2022.
 - The development proposed is the change of use from single dwelling (Use Class C3) building to a 4-bedroom HMO (Use Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form contains a long description of the proposal including matters that are not acts of development in themselves. I have therefore used the description from the Council's decision notice that adequately describes the proposal.

Main Issues

3. The main issues are:
 - The effect of the development on the supply of family housing in the area; and
 - Whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to internal and external communal space.

Reasons

Supply of Family Housing

4. Policy DM11 of the Development Management in Birmingham Development Plan Document 2021 (DPD) sets out the range of criteria that should be satisfied for the conversion of existing dwellinghouses to HMOs. Among these, criterion d) 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. One such objective is the provision of family sized dwellings in the city. The information provided by the Council of the total number of dwellings completed between 2011 and 2021 indicate that there is a significant shortfall in supply of 4+ bedroom dwellings required to meet the need identified in the city's Strategic Market Housing Assessment

(SHMA) for the period up to 2031. Also, supporting text paragraph 4.24 of the DPD states that where there are particular shortages of large family accommodation, the Council will be sensitive to any such need when considering proposals for HMOs which would result in the loss of such housing. Together the above articulates the importance of protecting the supply of family sized dwellings in Birmingham.

5. Within this context, the change of use of the property from a four-bedroom apartment to a four-bedroom HMO as proposed would remove a dwelling from the local housing stock that could accommodate a family.
6. Given the site's accessibility to various workplaces and educational establishments including the University of Birmingham and University College Birmingham, and the potential to meet the need of accommodation for a range of students, young professionals and those seeking lower-cost accommodation, there may well be demand for HMO accommodation in the area. However, there is no substantive evidence presented to decisively indicate that the appeal property is unattractive to families, or a lack of demand for four-bedroom family homes in this location.
7. Furthermore, even though the proposal may well help respond to HMO demand in the area, the proposed change of use of the dwelling to a HMO would result in the loss of the existing four-bedroom, family sized home, of which there is an evidenced shortfall in local supply. In undermining the objective of supplying family housing in the area, the proposal would conflict with criterion d) of DPD Policy DM11, and fail to satisfy this policy's required full range of criteria. As such, the proposal would overall fail to meet local housing need.
8. Therefore, I conclude that the proposal would have a harmful effect on the availability of family housing in the area, and thus conflict with DPD Policy DM11. Furthermore, this erosion of family housing supply would fail to make best use of the existing dwelling, and would not contribute to a suitably mixed, balanced community and sustainable neighbourhood. In these respects, the proposal would conflict with Policies PG3, TP27 and TP30 of the Birmingham Plan 2031 Development Plan Document. It would also be contrary to the National Planning Policy Framework (the Framework), which seeks to ensure proposals make efficient use of land, taking into account the identified need for different types of housing.

Living conditions

9. While a communal kitchen dining area is proposed, this room is not large enough to also be used as a communal lounge. As such, the proposed internal space does not accord with the requirements of DPD Policy DM11 which, amongst other things, requires communal living space comprising a lounge, kitchen, and dining space either as distinct rooms or in an open plan format. I find that this would not be satisfactory for future residents for whom it is reasonable to expect adequate communal indoor space away from bedrooms, in which to relax and socialise. That the proposed bedrooms would exceed the required minimum size does not acceptably compensate for a lack of shared communal lounge space, beyond bedrooms, for future occupiers of the proposed HMO.
10. The existing rear garden space at the property would be accessible from one bedroom only. As such, most of the occupants of the proposed HMO would

have no access to private outdoor garden space for purposes such as drying clothes and outdoor recreation. Given the potential energy and environmental costs, the proposed washer dryer would not adequately compensate for a lack of access to an external private garden for most of the future occupants. In addition, the public open space adjoining the appeal property and in the wider area would not address the lack of private outdoor garden space as they are not private areas. I therefore find that the proposal would not provide sufficient private outdoor amenity space for future occupiers of the proposal, to the detriment of their living conditions.

11. In conclusion, the development would not provide satisfactory living conditions for future occupiers regarding internal and external communal space. As such, the development would conflict with DPD Policies DM2, DM10 and DM11 which, amongst other matters, seek to secure high quality accommodation with adequate living space. It would also not accord with the Framework which seeks to secure suitable living conditions for all.

Planning Balance

12. The Council confirms that it cannot demonstrate a five-year supply of deliverable housing sites. Therefore, policies which are most important for determining the appeal are to be considered out of date. Consequently, paragraph 11d) of the Framework is engaged. Therefore, according to paragraph 11d) ii) of the Framework, consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
13. The proposal would make a very modest contribution of one, four bedroom HMO, in an accessible location, to the supply of HMOs in the area. As set out above, I have found that the proposal would cause harm through the loss of a family house and would not provide satisfactory living conditions for future occupiers to which I give considerable weight. Overall, I find that the harm I have identified would significantly and demonstrably outweigh the benefits. Therefore, the Framework is not a material consideration that indicates a decision other than in accordance with the development plan.

Conclusion

14. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR