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# Appeal Decision

Site visit made on 15 November 2022

**by K Stephens BSc (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> December 2022.**

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**Appeal Ref: APP/P4605/W/22/3298768**

**48 Park Road, Moseley, Birmingham B13 8AH**

- 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 Daniel Kennedy (of KML Group) against the decision of Birmingham City Council.
  - The application Ref 2021/10218/PA, dated 29 November 2021, was refused by notice dated 27 January 2022.
  - The development proposed is for the erection of a two storey side extension to facilitate the provision of 2no. additional HMO bedrooms.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Since the application was refused, and during the determination of the appeal, the Council has adopted the Birmingham Design Guide Supplementary Planning Document<sup>1</sup> (the Design Guide). It sets out a number of Design Principles and is accompanied by City Notes found within a series of City Manuals. The Design Guide replaces the 'Specific Needs Residential Uses' SPG. The Council has set out the Design Guide principles and city notes it considers relevant and the appellant has been given the opportunity to comment.
3. Since the application was determined, the then draft 'Houses in Multiple Occupation' Supplementary Planning Document (the 'HMO-SPD') was adopted in April 2022. Amongst other things, it sets out detailed guidance to be used to assess planning applications for Houses in Multiple Occupation (HMOs), supporting the implementation of Policy DM11 (Houses in Multiple Occupation) of the Development Management in Birmingham Development Planning Document (the DMB). The parties have had the opportunity to comment.

## Background

4. Planning permission to change the property to a 12-bedroom HMO, with extensions, was dismissed on appeal<sup>2</sup>. Following the appeal decision, planning permission<sup>3</sup> was later granted by the Council for change of use with extensions into a 10-bedroom HMO.
5. Since the previous appeal decision and the subsequent grant of planning permission, the then emerging DMB was adopted in December 2021.

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<sup>1</sup> Adopted September 2022

<sup>2</sup> Appeal decision APP/P4605/W/20/3249965 dated 9 March 2021

<sup>3</sup> LPA ref: 2020/04770/PA granted 18 May 2021

6. When the current application, the subject of this appeal, was being determined the extension works to create the approved 10-bedroom HMO were being undertaken. On my visit I saw that the extensions had been built and the property was occupied, although the landscaping of the remaining amenity area around the property had not been fully completed.

### **Main Issues**

7. The Council has confirmed it made errors in calculating the amount of outside amenity space and that it no longer has concerns about the amount of private outdoor amenity space. It therefore has withdrawn part of the second reason for refusal relating to outside amenity space. However, it maintains its concerns about the internal living accommodation.
8. In light of the above, the main issues are:
- The effect of the proposed development on the character and appearance of the area,
  - Whether the proposed development would provide appropriate living conditions for existing and future occupants, with particular regard to the internal floor area, and
  - The effect of the proposed development on highway safety with particular regard to parking.

### **Reasons**

#### *Character and appearance*

9. The appeal site comprises a traditional two-storey end of terrace residential building on the corner of Edgbaston Road and Park Road, where five roads converge on a mini roundabout. As a result it occupies a prominent and exposed location in the street scene. The extended side elevation, which now contains the front door with a new porch, now creates a strong end to the terrace. The area is predominantly residential. The terrace to which the appeal property belongs faces onto Edgbaston Road, but is set back from it. This part of Edgbaston Road is characterised by smaller terraced properties. The rear of the property backs onto Park Road, which is wider and more tree lined and characterised by generally larger period properties, although there are some purpose-built flats and some older properties have been converted into flats. A number of properties also have on-site parking. The mix of property designs, styles and sizes creates a varied character and appearance, to which the appeal property positively contributes.
10. The proposed two-storey dual pitched-roof extension would protrude out from this prominent side (front) elevation, taking built development closer to the corner, pavement edge and roundabout. It would also encroach into the amenity space around the property, reducing its open setting.
11. From Edgbaston Road the existing extended property, with its gable feature, provides a definitive end to the terrace. The proposed extension would utilise design breaks to ensure the roof would be lower than that of the main house and the elevation on Edgbaston Road would be set back, to attempt to create a subservient addition to the building. I have no reason to doubt it would not be built to a high standard and detailing.

12. Nonetheless, the proposed two-storey extension would bear little relation to the general pattern and form of the building and terrace or to the two elevations it forms part of. It would be an uncomfortable adjunct to this end-of-terrace property and would be unduly prominent and visually detrimental to the property and adversely affect the street scene and harm the character and appearance of the area. Accordingly it would be contrary to Policy PG3 of the Birmingham Development Plan (the BDP) and DMB Policy DM11. Collectively these seek to ensure high quality design that responds to local area context.
13. It would also conflict with Policy UD1 of the Moseley SPD which seeks to ensure new development enhances and improves the quality of the built environment. It would also conflict with the Birmingham Design Guide and in particular Design Principles 2 and 14 and City Notes LW7 and LW18 that collectively provide guidance that, amongst other things, the location and form of development does not adversely impact on the character and appearance of buildings and the street.

#### *Living conditions and internal layout*

14. The submitted floor plans show the proposed bedrooms would be at about 10sqm, which exceeds the 7.5sqm recommended in the nationally described space standards<sup>4</sup>, DMB Policy DM11, the Council's HMO-SPD and Design Guide City Note LW18. There is no dispute between the parties about the size of the proposed bedrooms.
15. The submitted 'existing' floor plans for the approved 10-bedroom HMO show that on each floor there are 5 ensuite bedrooms and an open-plan communal kitchen/dining area measuring approximately 34.2sqm. The whole HMO therefore currently provides a total of about 68.4sqm of open-plan communal kitchen/dining room space.
16. The proposed extension would provide a further 2 ensuite bedrooms, but there would be no proposed increase in the amount of communal kitchen/dining space, or no provision of living room space, either in a separate room or as part of the existing open plan dining/kitchen spaces. The Council contends that the amount of communal space that would be shared by 12 occupants, instead of 10, would not be sufficient.
17. Policy DM11 does not specify or recommend floor areas for communal living spaces, only that the amount and configuration would be dependent on the size and character of the property and that communal space is expected to comprise lounge, kitchen and dining space, either as distinct rooms or in an open-plan format. It goes on to explain, as does the HMO-SPD, that having insufficient communal areas increases the time occupants must spend in their individual bedrooms and this can in turn hinder social cohesion within the property. Appropriately equipped, sized and proportioned communal areas should be provided in accordance with the Council's adopted guidance Property and Management Standards<sup>5</sup> (the P&M Standards).
18. The P&M Standards advise that where the occupants do not have access to a separate communal living room, bedrooms should be at least 10sqm. The

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<sup>4</sup> Technical housing standards – nationally described space standards. Published March 2015 by the Department for Communities and Local Government.

<sup>5</sup> Property and Management Standards Applicable to Privately Rented Properties, Including Houses in Multiple Occupation (HMOs) – Birmingham Council

existing and proposed bedrooms would accord with this. Furthermore, the appellant calculates from the specified standards that communal living/kitchen/dining rooms should be at least 27.5sqm. The floor area of each of the existing communal kitchen/dining rooms (without a living area) each measure about 34.2sqm and so already exceed this.

19. Whilst the appellant suggests the layout of the communal space is indicative and furniture can be re-arranged to suit occupants' needs, I saw that the HMO is operational and the rooms already in use. The indicative layout on the plans would suggest there would not be much space for sofas and easy chairs to be fitted as well. Nonetheless, the sizes of bedrooms and the communal space complies with and exceeds the recommended floor areas. Furthermore, there are two communal kitchen/dining spaces, so occupants have more choice of where to sit and eat. In addition, the communal rooms are regular in shape and each has a large window overlooking the rear outside private space, with the ground floor communal space also having patio doors opening out directly into the garden.
20. In dismissing the previous appeal for the 12-bedroom HMO, the Inspector did not refer to the dimensions of the communal spaces per se. He had a different layout before him and he focussed primarily on the size of some of the bedrooms and their poor outlook, as well as the lack of outlook and natural daylight to the communal areas. I understand that the internal layout of the building was amended for the approved 10-bedroom HMO to take account of the Inspector's comments. I have not been provided with any substantive evidence to suggest the existing communal spaces are not working or are inadequate.
21. Based on the evidence before me I am satisfied that the internal living space of the HMO would provide bedrooms and communal kitchen/dining space of sufficient size and quality for 12 occupants, and consequently there would be no harm to the living conditions of existing and future occupants.
22. Accordingly, there would be no conflict with DMB Policies DM2 and DM11 and BDP Policies PG3 and TP27. Collectively these seek to promote sustainable neighbourhoods with high quality design, and ensure occupiers have access to high quality and useable amenity space of a minimum size and nature. There would be no conflict with the guidance in Design Principle 15 and City Notes LW11 and 13, which collectively seek to ensure that high quality homes are provided and that there is sufficient useable indoor and outdoor space for all occupants.

#### *Parking and highway safety*

23. When planning permission was granted for the 10-bedroom HMO the Council did not have parking standards for HMOs. Any concerns the Council had about the lack of on-site parking were tempered by the appeal Inspector's conclusion that a 12-bedroom HMO would not result in demonstrable harm to highway safety, taking into account the site's context, the nature of the surrounding roads and on-street parking provision, access to public transport and the provision of cycle parking.
24. No evidence has been presented to suggest that the fundamental nature and context of the site has changed materially since either the Inspector's decision in March 2021 or the Council's grant of approval for the 10-bedroom HMO in

May 2021. However, in November 2021 the Council adopted a new Birmingham Parking SPD.

25. The Parking SPD identifies that the site falls within Zone C, which is classed as predominantly residential and with typical levels of parking which allow for flexibility to reduce or increase parking provision depending on various site specific factors. For HMOs in Zone C the Parking SPD recommends provision of 0.5 parking spaces per bedroom, recognising that HMOs and shared housing tend to attract occupiers with lower-than-average levels of car ownership compared to the general population.
26. For the existing 10-bedroom HMO the Parking SPD would recommend 5 on-site parking spaces, and the two extra bedrooms proposed would recommend the need for a further 1 off-street parking space. However, no on-site parking has been provided for the 10-bedroom HMO and the scope of this appeal does not allow me to retrospectively apply the new parking standards to development that has already been approved. However, the provision of the 1 recommended parking space cannot be provided without significantly reducing the amount of outdoor private amenity space. This in turn would have a detrimental effect on the living conditions of occupants.
27. On my visit, albeit a snap-shot in time, I found there was on-street parking available on Park Road, which is the wider of the two roads where existing properties already have a greater provision of off-street parking. There are parking restrictions close to the site and the junctions with the mini roundabout, which are areas where any parking could cause highway safety concerns.
28. I have not been made aware of significant parking problems in the area, or indeed that the existing 10-bedroom HMO, since its existence, is creating parking stress or causing inconsiderate parking in the local area that is affecting highway safety. The Highway Authority has not objected to the proposed development, subject to a condition for the provision of secure cycle parking in accordance with the Council's parking standards. This could be conditioned if I were minded to allow the appeal.
29. Based on the evidence before me I am satisfied that the proposed development for an additional 2 bedrooms would not create an undue demand for parking and that any additional parking that might occur would not cause unacceptable harm to highway safety. With the site's location and proximity to public transport and local facilities, occupants would not be car-reliant for day-to-day services. Secure cycle parking for occupants would further reduce the need for car use/ownership.
30. Accordingly the proposal would not conflict with BDP Policies PG3, TP38 and TP44 and DMB Policy DM14. These collectively seek to create sustainable neighbourhoods, manage travel demand, encourage people to cycle and walk and ensure development does not have unacceptable adverse impacts on highway safety. There would be no conflict with the flexible application of the Council's parking standards and Design Principle 4.

## **Conclusion**

31. I find the proposed extension would cause unacceptable harm to the character and appearance of the building and the surrounding area. The lack of harm to

the living conditions of occupants of the HMO or to highway safety carry neutral weight in my considerations.

32. The proposed development would not accord with the development plan, and there are no other material considerations which outweigh this finding. For the reasons given above I conclude that the appeal should be dismissed.

*K. Stephens*  
INSPECTOR