



Appeal Decision

Site visit made on 16 December 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/P4605/W/22/3300681

3 Glencoe Road, Birmingham B16 0PB

- 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 Suna Terci against the decision of Birmingham City Council.
 - The application Ref 2022/01331/PA, dated 17 February 2022, was refused by notice dated 5 May 2022.
 - The development proposed is described as 'Change of use from dwellinghouse (Use Class C3) to a 5 bedroom House in Multiple Occupation (HMO) (Use Class C4)'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by the appellant. The application is the subject of a separate decision.

Preliminary Matters

3. The appeal site is covered by an Article 4 Direction. This restricts permitted development rights for the change of use of a single dwellinghouse in Use Class C3, to a small house in multiple occupation in Use Class C4.
4. Since the determination of the original application, the Council has adopted the Birmingham Design Guide Supplementary Planning Document (adopted 2022) (SPD), which supersedes various supplementary planning documents that were referred to in the original planning officer's report. I understand that the Council has provided copies of the updated guidance to the appellant who has had sufficient opportunity to review and provide a response. As such, I do not consider that the appellant has been prejudiced by the change in policy circumstances.
5. The appeal was submitted with Ownership Certificate A in error. The appellant has subsequently served notice on the owner of the property and completed and submitted Certificate B. Sufficient opportunity has been provided for the owner to make representations to the appeal proposal.

Main Issues

6. The main issues are:
 - Whether the proposal would provide acceptable living conditions for future residents, in terms of the provision of internal living space and external amenity space; and

- Whether the proposal would result in the unacceptable loss of family housing stock.

Reasons

Living Conditions

7. The appeal property is a two-storey end of terrace dwelling located on the corner of Glencoe Road and Majuba Road. The surrounding area is primarily residential in character and is predominantly characterised by long terraced streets of dwellings that are modest in scale.
8. Policy DM11 of the Birmingham Plan 2031 Development Management in Birmingham Development Plan Document (adopted 2021) (DPD), specifically relates to development involving houses in multiple occupation (HMOs). The policy identifies, amongst other matters, that HMOs will be permitted where they provide high-quality accommodation and adequate living space. This includes specific space standards for bedrooms. It also sets out a need for HMOs to provide various communal living spaces, washing facilities, outdoor amenity space and recycling and refuse storage. The policy does not establish any size standards for these other elements however, it makes clear that they are expected to be of adequate size and provide high-quality accommodation.
9. The appellant contends that the proposal would comply with Policy DM11 as it meets the specified minimum size standards for bedrooms and provides all other expected facilities. However, the policy retains a quality requirement. Furthermore, the Council's development plan policies should not be read in isolation.
10. Notably, other policies of relevance include DPD Policy DM2 which also requires developments to provide access to high quality and useable amenity space. Policy DM10 of the DPD meanwhile requires all residential developments to meet the minimum Nationally Prescribed Space Standards (NPSS). It also specifies that all new residential developments should provide sufficient private, useable outdoor amenity space appropriate to the development proposed. This is further supplemented by more precise guidelines in the SPD.
11. In terms of internal space, the appellant contends that the proposal meets the NPSS. Although the Council has referred to conflict with Policy DM10, the Officer's report suggests that it is the shared internal amenity space that is inadequate in size. In coming to this view, the officer's report referred to now superseded guidance that set out expectations on the level of amenity space to be provided in residential developments. Additionally, the Council has not identified how the proposal conflicts with the NDSS.
12. Based on the evidence before me, I therefore cannot identify a conflict with the NDSS. Furthermore, no specific size requirements are set out in respect of shared internal amenity space for HMOs within the Council's development plan policies or its updated SPD. Instead, emphasis is placed on the quality of the space. Notably, the SPD highlights that internal spaces should be functional in nature, fulfil the needs of all residents and enable people to interact with one another.
13. The proposal includes an open plan kitchen/dining/living space of approximately 20sqm. The layout shown on the proposed floorplans appears functional in nature and would be sufficient to accommodate all 5 occupants to

dine or socialise at the same time. Consequently, with respect to the internal living space, I find that the proposal would provide suitable living conditions for future occupiers.

14. Turning to the external amenity space, the existing courtyard garden is already extremely limited in size. The proposal involves extending the property, which would effectively reduce the available private amenity space to a very narrow strip between the dwelling and adjacent boundary wall. The space would be highly enclosed and likely shaded for much of the day due to its relationship with the surrounding built form. It would likely therefore offer a rather dreary space to spend time within.
15. The proposal would also not meet the Council's guidelines¹ in respect of the quantum of outdoor amenity space that should be provided, but nor does the existing property. The appellant has referred to a local appeal decision² in which the Inspector determined that the garden of a proposed HMO would enable occupants to dry clothes and to sit outside and therefore was deemed a sufficient size to serve residents' needs. I do not have details of the specific circumstances of the appeal including whether the size and configuration of the garden space serving that appeal property was comparable to the scheme before me. Nevertheless, I agree with the thrust of the previous Inspector's comments. Namely, that it would be sufficient to provide the HMO with amenity space of a scale and form that would enable occupants to enjoy leisure time and perform basic needs.
16. In this instance, however, I find that even basic functions such as multiple residents utilising the proposed amenity space, simultaneously, would be severely compromised. This is due to the extremely limited size and configuration of the appeal scheme's proposed garden area.
17. It is recognised that the proposed HMO is likely to attract young professionals, as opposed to a family, who may not as highly value a garden space and/or be more capable of accessing nearby public greenspaces. Despite this, I find that the proposal would provide an inappropriate level and quality of external amenity space for future occupants.
18. It has been put to me that the proposed extension could be pursued separately under permitted development rights, which would thereby reduce the existing garden space. Whilst this may be the case, the extension is intrinsically linked to the appeal proposal as it provides additional bedroom and living space for the proposed HMO. I am not convinced that the property would continue to be extended in this manner if planning permission for the conversion to a HMO was not granted.
19. Overall, whilst the proposal may offer suitable internal living conditions, I find that the external amenity space would not provide acceptable living conditions for future occupiers of the proposed HMO. Accordingly, the proposal does not comply with Policies DM2, DM10 and DM11 of the DPD. Likewise, it would conflict with the aims of the Framework in respect of promoting development that incorporates a high standard of amenity for future users.

¹ Either the relevant guidelines at the time of the application as established within 'The Places for Living' Supplementary Planning Guidance (adopted 2001) or the subsequent adopted Birmingham Design Guide (adopted 2022) SPD.

² Appeal Ref: APP/P4605/W/20/3261259

Loss of Family Housing

20. Policy DM11 also seeks to restrict the development of HMOs where there is an overconcentration of such uses, to maintain balanced communities. Several criteria are identified under Policy DM11 to distinguish an overconcentration of HMOs, including the ensuring proposal would not result in more than 10% of the properties within a 100-metre radius of the site being HMOs.
21. The Council has identified that HMOs account for 1.83% of properties within 100m of the appeal site, thus well below the established policy threshold. Additionally, the proposal would also adhere to further requirements of Policy DM11 in respect of avoiding an overconcentration of HMO uses. In particular, it would not result in a C3 family dwellinghouse being sandwiched between two HMOs or other non-family residential uses, nor would it lead to a continuous frontage of three or more HMOs or other non-family residential uses.
22. Meanwhile, Policy TP30 of the Birmingham Plan 2031 Planning for Sustainable Growth (adopted 2017) (BP) seeks to provide a mix of housing types and balanced, sustainable communities. This is consistent with the aims of paragraph 62 of the Framework. The policy highlights that several factors will be considered in the delivery of new housing developments, including the Council's Strategic Housing Market Assessment (SHMA), market signals and local market trends.
23. In refusing the proposal, the Council has referred to its SHMA, which sets out that the city's greatest need is for 3 and 4 bedroom dwellings. However, the SHMA is calculated on a city-wide basis and there is no robust evidence before me as to the specific housing needs for the appeal site's specific locality.
24. Furthermore, the appellant has presented evidence from various local property agents that indicates there is strong demand for HMOs in the area, particularly from students and young professionals. This is due to its proximity to the city centre and a nearby emerging hospital development. The proposal would therefore meet a local market need. It is not clear from this evidence whether, or not, there is equally strong demand for family housing in the area. Nevertheless, from the evidence before me it appears that the local area is characterised predominantly by single family dwellings.
25. The appellant has also brought to my attention a relatively recent appeal decision³ in which the Inspector approved a HMO within the city despite the findings of the Council's SHMA data. The precise details of the appeal context differ. Despite this, I agree with the previous Inspectors' findings that the strict application of the SHMA data would ultimately result in almost any conversion of existing residential properties to HMO being resisted, due to the loss of a family home. This is clearly not the intention of Policy DM11, which instead aims to manage the level of HMOs so they are appropriate to an area. Likewise, Policy TP30 does not seek to prevent HMOs, but instead provide a balanced mix of housing options.
26. Accordingly, I do not consider the proposal would significantly or demonstrably harm the supply of family housing in the area. In regard to this second main issue, I therefore find no conflict with Policies PG3, TP27 or TP30 of the BP, or

³ Appeal Ref: APP/P4605/W/21/3283475

the relevant criteria of Policy DM11 of the DPD referred to above. Together these policies, amongst other matters, seek to support the creation of sustainable neighbourhoods through the delivery of a range of housing to meet local needs and avoid the concentration of HMOs. Additionally, the proposal would not conflict with the relevant provisions of the Framework that seek to ensure that there is a sufficient supply of homes of appropriate size, type and tenure of housing needed for different groups in the community.

27. However, the lack of conflict with these policies in respect of the supply of family housing, does not outweigh the previously identified harm to the living conditions of potential future occupiers and the associated policy conflicts.

Other Matters

28. The Council has provided suggested draft conditions in the event planning permission was to be allowed. This does not convey that the Council considers the appeal proposal to be acceptable. Furthermore, I do not find that the imposition of the suggested conditions would overcome my concerns regarding the living conditions for future occupiers of the proposed development.
29. It is recognised that the proposed change of use would ordinarily be permitted development. Furthermore, I am aware that the reason for the city-wide Article 4 direction was to address concerns relating to overconcentration of HMOs, which the proposal would not lead to. This is a material consideration to which I have given moderate weight. Nevertheless, this does not negate the need for appropriate living conditions to be provided in line with the development plan requirements, nor does it outweigh the identified harm.

Conclusion

30. For the reasons outlined above, having regard to the development plan as a whole and all other matters raised, the appeal is dismissed.

Lewis Condé

INSPECTOR