



Appeal Decision

Site visit made on 8 December 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2023

Appeal Ref: APP/P4605/W/22/3302330

50 Florence Road, Sutton New Hall, Sutton Coldfield B73 5NG

- 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 Harvinder Singh Sogi of HV ESTATES LTD against the decision of Birmingham City Council.
 - The application Ref 2021/08083/PA, dated 16 September 2021, was refused by notice dated 9 March 2022.
 - The development proposed is change of use from 3 bedroom (C3 use class) house, to Houses in Multiple Occupation (HMOs) 5 rooms (C4 use class). Single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice makes reference to policies in the 2005 Birmingham Unitary Development Plan (UDP). However, the Council adopted the Development Management in Birmingham Development Plan Document in December 2021 (the DPD) which advises that the UDP policies have now been replaced. Both parties made reference to the DPD policies in their planning application and appeal submissions. Therefore I make no further reference to the UDP policies in my decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the living conditions of the occupants of neighbouring houses, with particular regard to noise and disturbance;
 - highway safety, with particular regard to vehicle parking; and
 - the supply of housing.

Reasons

Living Conditions

4. The appeal site is located in a relatively dense residential area. As a three bedroom dwelling it provides accommodation suitable for a family and is one of a number of similar sized terraced properties on this section of Florence Road. Its front door is immediately adjacent to that of the neighbouring house at No 48. It has a compact garden that runs parallel with those of its neighbours to either side, which are also of similar dimensions.

5. Although the proposal would retain the building in residential use, the occupants of a house in multiple occupation (HMO) are likely to lead independent lives from one another. Therefore, the activity generated by five people, with separate routines, and their attendant comings and goings along with those of their visitors, would lead to a level of activity that would be more marked and intensive than that which could reasonably be expected to be associated with a single house. Even large families occupying a single dwelling, are more likely to carry out day to day activities together as a household.
6. Notwithstanding that the site is within an urban environment where a certain level of background noise is to be expected, the proposal would give rise to a level of general noise and disturbance at an intensity that would be disruptive. This would be particularly noticeable for the occupants of the neighbouring houses at Nos 48 and 52 Florence Road, given the compact nature of the houses and the inherent proximity of such terraced housing, including their entrances and windows, to one another.
7. Due to the modest size of the rear gardens at the appeal site and neighbouring properties, the occupants of No 48 and 52 would also have very limited opportunity to find a quiet area within their gardens, away from noise and disturbance from No 50. This would be particularly evident on warmer days when windows and rear doors may be kept open. I accept that intervening boundary walls and fencing in the rear garden could minimise harm to the living conditions of neighbouring occupants from overlooking. However evidence that it would keep noise impacts to an acceptable level is not sufficiently persuasive.
8. Therefore, the proposal would unacceptably harm the living conditions of the occupants of neighbouring houses, with particular regard to noise and disturbance. Consequently, it would be contrary to Policy PG3 of the Birmingham Development Plan (January 2017) (Development Plan) which requires that proposals achieve high quality design, including responding to site conditions and local context. It would also be contrary to Policy DM2 of the DPD. This requires that developments avoid unacceptable impacts on neighbouring occupants including with respect to noise and compatibility of adjacent uses.
9. It would also be contrary to paragraph 130 of the National Planning Policy Framework which seeks to ensure developments achieve a high standard of amenity for existing and future users. Similarly, it would not comply with the general aim of protecting the amenity of existing residents as set out in the Council's Places for Living Supplementary Planning Guidance (2001).

Highway Safety

10. The site is located in an urban environment where many houses are without driveways and therefore use on-street parking. In addition, the site's proximity to other uses including retail and commercial premises is likely to increase pressure for parking spaces on Florence Road and the surrounding area. The appellant submitted a Parking Beat Survey with their planning application (Mode, December 2021). That considered the availability of parking spaces on local roads, with reference to the Council's maximum car parking standard of 0.5 unallocated spaces per HMO bedroom as set out in the Birmingham Parking Supplementary Planning Document (November 2021) (the Parking SPD).

11. The Parking Beat Survey shows that on the nights surveyed, there were six or seven parking spaces available on sections of Florence Road that are without parking restrictions. Therefore at those times, there was capacity to accommodate the maximum of three parking spaces indicated by the Parking SPD for the proposed HMO. In addition, whilst only a snapshot in time, I observed a number of unrestricted on-street parking spaces available on Florence Road during my mid morning, mid day site visit.
12. Therefore in the event that the appeal were to succeed, I see no reason to conclude that parking would be so constrained that future occupants of the proposal would be likely to park in such a way that it would be harmful to pedestrian or highway safety. Accordingly, the proposal would not result in unacceptable harm to highway safety, with particular regard to vehicle parking. I note that the Council's transportation team independently concluded that the proposal would be unlikely to significantly increase parking demand, with reference to the site's accessibility by sustainable transport modes, including Chester Road railway station.
13. Accordingly, with respect to this main issue I find no conflict with Policy PG3 of the Development Plan and TP27 of the Development Plan which, amongst other matters, support developments that contribute to the creation of sustainable and accessible neighbourhoods. However, for the reasons given above the proposal would conflict with Policy PG3 of the Development Plan as a whole. The proposal would comply with Policy DM14 of the DPD which generally seeks to ensure proposals avoid unacceptable harm to highway safety. Given the accessibility of the site, it would comply with Policy DM15 of the DPD which, amongst other matters, requires that proposals promote sustainable travel and meet the operational needs of development in terms of parking provision.
14. Further, it would accord with paragraph 111 of the Framework which specifies that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Given that the Council's parking standards are maximum standards and include a provision for alternative parking levels to be considered on a case by case basis, I find no conflict with the Parking SPD.

Supply of Housing

15. The proposal would replace a three bedroom dwelling. The Council references the Strategic Housing Market Assessment (2021) (SHMA) which states that the greatest need is for two bed properties (30.8%), followed by four or more bed properties (28%) and three bed properties (26.3%). This implies that there is a proportionally lower need for one bed accommodation, albeit only this summary of the SHMA is before me. Whilst the Council indicates that the SHMA is more recent than the evidence that informed the DPD policies, the DPD remains part of the adopted development plan.
16. Policy DM11 of the DPD permits proposals for conversion of existing houses, to houses in multiple occupation (HMO), where they protect residential amenity and the character of the area, and comply with a number of other criteria. It is not a matter in dispute between the main parties that the proposal would not lead to HMOs forming over 10 per cent of the residential properties within a 100m radius of the site (criterion a.). Similarly, the proposal would not result in

a family dwelling being sandwiched between two HMOs or a continuous frontage of three or more HMOs (criteria b. and c.).

17. Paragraph 4.12 of the DPD acknowledges the value in HMOs broadening housing choice. Similarly, Policy TP27 of the Development Plan supports sustainable neighbourhoods characterised by a wide choice of housing sizes, types and tenures. Policy TP30 of the Development Plan similarly seeks to support mixed and balanced neighbourhoods. Therefore, in the absence of substantive evidence to the contrary, the proposal would accord with criterion d. of Policy DM11 of the DPD, which requires that proposals for conversion to HMO do not result in the loss of a use that makes an important contribution to other Council strategies.
18. Although there are HMOs in the area, they are not so close to the appeal site so as to result in unacceptable cumulative impacts on neighbours' living conditions, highway safety or parking (Policy DM11 criterion e.). It is not a matter in dispute between the main parties that the proposal would provide adequate internal living space. Notwithstanding my conclusions on the impact of use of the appeal garden on neighbouring occupants, in the particular circumstances of this case I am satisfied that the space in the rear garden would be adequate for its proposed future occupants, even noting the reduction in outdoor space from the proposed cycle storage (Policy DM11 criterion f.). Therefore the proposal would comply with Policy DM11 as a whole.
19. The loss of a single three bed dwelling would have only a very limited impact on the supply of three bed homes within the city. Furthermore, the appeal site is proposed to remain in residential use and could increase the number of individuals accommodated within the building. It has not been robustly demonstrated that there is a particular shortage of three bed dwellings in the locality of the appeal scheme.
20. Concluding on this main issue, the effect of the proposal on the supply of housing would be acceptable. It would comply with Policy TP30 of the Development Plan which generally seeks to ensure proposals meet local needs and support balanced, sustainable neighbourhoods. As the proposal would remain in a residential use I find no conflict with Policy TP35 of the Development Plan, which seeks to make the best use of the existing dwelling stock and prevent loss to other uses. For the reasons given, it would accord with Policy DM11 of the DPD relating to conversion to HMOs.
21. With respect to this main issue it would also comply with paragraph 92 of the Framework which supports proposals that promote interaction between people who might not otherwise come into contact with each other. However given my findings with respect to living conditions, it would not be in accordance with the Framework when taken as a whole.

Conclusion

22. Whilst the proposal would be acceptable with respect to highway safety and housing supply, and would not change the appearance of the appeal site from Florence Road, it would give rise to enduring harm the living conditions of the occupants of neighbouring houses.

23. Therefore, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR