



Appeal Decision

Site visit made on 16 May 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2023

Appeal Ref: APP/P4605/W/22/3311247

56 George Street, Sparkbrook, Birmingham B12 9RT

- 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 Tracy Wassall against the decision of Birmingham City Council.
 - The application Ref 2022/03126/PA, dated 11 April 2022, was refused by notice dated 27 June 2022.
 - The development proposed is described as a change of use to a 5 Bed HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has stated that the rear dormer did not form part of the original planning application. At the time of my visit, it appeared to be externally complete and the appellant has set out that it has been constructed using Permitted Development rights. Although it is not included in the description of development on the planning application form, it is shown as a proposal on the submitted plans and serves one of the bedrooms in the proposed HMO. I have therefore included it within my assessment on the appeal.

Main Issues

3. The main issues are:
 - whether the development would result in the unacceptable loss of a family dwelling,
 - the effect of the development on the character of the area with particular regard to the mix and balance of housing, and
 - the effect of the rear dormer on the character and appearance of the host building and the area.

Reasons

Family Dwelling

4. The appeal property comprises of a mid-terrace dwelling, which is situated in a predominantly residential area, albeit the area contains a variety of commercial and community uses. Policy TP35 of the of the Birmingham Development Plan (BDP) seeks to prevent the loss of housing to other uses and Policy DM11 of the Development Management in Birmingham Development Plan Document (DMB), which specifically relates to houses in multiple occupation (HMO), sets

out, amongst other matters, that the conversion of existing dwellinghouses to be used as HMO's will be permitted where they would not result in the loss of existing uses that make an important contribution to other Council objectives, strategies and policies.

5. The appellant has provided evidence that sets out there is less demand for family homes and a larger demand for HMO's. Notwithstanding the differing views of the main parties on the relevance and the robustness of the estate agent's letters provided, the Houses in Multiple Occupation Supplementary Planning Document (SPD), sets out the need for six months evidence of marketing, which the letters do not provide details of. Although the property had been on the market around three years before it was purchased by the appellant, it was also in a poor condition and required extensive renovations, including structural works which may have affected the demand for the property as a family dwelling.
6. My attention has also been drawn to a number of other documents. Although the Council's Strategic Housing Market Assessment (2013) has been superseded by the Birmingham Housing and Economic Development Needs Assessment (2022) (HEDNA), this, like the SHMA, also sets out the need for larger properties. I accept there is demand for all sizes of accommodation, but having regard to the HEDNA, there has been a significant delivery of smaller units of accommodation, rather than those with three and four or more bedrooms. Although the HEDNA is not specific to the site, it does provide recent evidence of the continuing demand for family dwellings.
7. As such, and in the absence of clear evidence that establishes a lack of demand for the single family use of the property, I conclude the proposal would result in the unacceptable loss of a family dwelling and consequently, it would conflict with BDP Policies TP30 and TP35, DMB Policies DM2 and DM11 and the National Planning Policy Framework (Framework), which seek, amongst other matters, to prevent the loss to other uses of housing which is in good condition, or could be restored to good condition at reasonable cost.

Character, Mix and Balance

8. DMB Policies DM11 sets out a criteria based approach to permitting proposals for the conversion of existing dwellinghouses to HMO's. This includes ensuring HMO's not forming in excess of 10% of properties within a 100-metre radius of the application site.
9. The appellant and the Council have set out differing calculations, with the former calculating there to be 85-90 residential properties and not 78 as referenced by the Council within this 100-meter radius. Although the Council consider their figure to be more precise and up-to-date, they have not provided any further details unlike the appellant who has provided maps and a list of addresses.
10. As such, and irrespective of whether Supported Exempt Accommodation is included, based on either of the appellant's figures of the overall number of properties, the number of HMO's would not exceed the 10% limit. In addition, I have not been made aware of any conflict with other criteria such as a family dwellinghouse being sandwiched between two HMOs or other non-family residential uses, or the proposal leading to a continuous frontage of three or more HMOs or other non-family residential uses. Accordingly, the proposal

would not unbalance the housing mix above a level that the Council has identified would have an adverse impact on the character of the area.

11. To conclude, the proposal would not have a harmful effect on the character of the area with specific regard to the mix and balance of housing and as such, would not conflict with BDP Policy PG3, DMB Policies DM2 and DM11 or the Framework, which seek, amongst other matters, to protect the character of an area and support the creation of sustainable neighbourhoods.

Rear Dormer

12. The appeal property forms part of a traditional terrace, which although constructed with a generally consistent design, have been subject to various alterations, including at roof level. The terrace is situated in an area with properties from different periods and styles which gives the area a mixed character.
13. The replacement dormer is larger than the one it replaced, but it is at the rear of the property, where in the area around the appeal site, I was able to see a variety of large dormers. It occupies a large portion of the rear roof slope but it is still possible to see the existing chimney on the main roof as well as the chimney on the rear outrigger.
14. The dormer is seen from surrounding gardens and from Heath Court, however, given it is formed externally of a material that is similar in appearance to the roofing material on the host property and the appeal terrace, I do not consider it would appear unduly prominent.
15. I therefore conclude that the proposal would not have an unacceptable effect on the character and appearance of the host building or the area. As such, it would not conflict with BDP Policy PG3, which seeks, amongst other matters, design that responds to site conditions and the local area context. It would also not be contrary to the Framework, the National Design Guide or the aims of the Birmingham Design Guide, which seek development that is sympathetic to local character.

Other Matters

16. Reference has been made to other appeal decisions by the main parties. Although there are some similarities with this appeal development, it is evident that they were considered on their own merits and are not directly comparable to this appeal scheme, as one of the referenced appeals related to a different form of development involving self-contained flats. A number of HMO decisions in the area have been referenced but I have not been provided with any further details of these. I can however confirm that I have dealt with this appeal on its own merits.
17. The appeal property is not listed or within a conservation area and nor is it affected by any environmental or ecological constraints. The development would provide acceptable internal and external space for future occupants, and it would not give rise to any adverse impacts on neighbour's living conditions or on highway safety. These are neutral matters and not ones which weigh in favour of the development.
18. The appeal property has been vacant for a long period and the proposal would bring it into use, providing high quality affordable accommodation. Whilst these

factors weigh in favour of the proposal, they would not outweigh the harm that I have identified in relation to the first main issue.

Conclusion

19. There would be no harm arising in relation to the mix and balance of housing nor on the character and appearance of the host building or the area, but I find the development would be unacceptable in relation to the loss of a family dwelling.
20. I have found that the development would conflict with the development plan read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

F Rafiq

INSPECTOR