



Appeal Decision

Site visit made on 25 April 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Appeal Ref: APP/P4605/W/22/3310733

31 Lount Walk, Birmingham B19 2QD

- 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 Zoryana Korvatska against the decision of Birmingham City Council.
 - The application Ref 2022/05433/PA, dated 7 July 2022, was refused by notice dated 22 September 2022.
 - The development is change of use of a dwellinghouse (Use Class C3) to a small HMO (Use Class C4) of 6 rooms including communal space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application form states that at the time that the application was made, development had not started. However, in their final comments, the appellant stated that the conversion is now completed, and I observed that at my site visit. I have dealt with the appeal on that basis.

Main Issues

3. The main issues are
 - The effect of the development on the provision of family housing in the area; and
 - Whether occupiers have satisfactory living conditions having regard to the layout of and daylight within the communal kitchen/living/dining room and the size of the external amenity area.

Reasons

Provision of family housing in the area

4. Prior to the conversion of the appeal house to a house in multiple occupation (HMO) for 6 people, it was in use as a single house with 3 bedrooms. The property is at the end of a terrace of two storey houses at least one of which is a HMO.
5. Policy TP27 of the Birmingham Plan 2031, Birmingham Development Plan, Planning for sustainable growth, adopted January 2017 (BDP) requires that residential development provides a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages. In

respect of the type, size and density of new housing, Policy TP30 of the BDP requires that account is taken of the Strategic Housing Market Assessment (SHMA) or any subsequent revision, Detailed Local Housing Market Assessments (where applicable), current and future demographic profiles, locality and ability of the site to accommodate a mix of housing, market signals and local housing market trends.

6. Policy DM11 of the Birmingham Plan 2031 Development Management in Birmingham Development Plan Document adopted December 2021 (DMBDP) states that the conversion of existing dwellinghouses to HMO's will be permitted where, amongst other things, it would not result in the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies. The Aston, Newtown and Lozells Area Action Plan adopted July 2012 (ANLAAP) identifies a lack of family housing in the area. Further guidance is provided in the Birmingham City Council, Houses in Multiple Occupation Supplementary Planning Document, April 2022 (HMOSPD) which amongst other things states that "proposals comprising the conversion of existing C3 dwellinghouse to an HMO must demonstrate there is an established lack of demand for the single family use of the property".
7. At the time of determining the application, the Council largely relied on evidence in the SHMA, which the appellant states was last updated in 2013. However, the Council's evidence at appeal includes the Birmingham Housing and Economic Development Needs Assessment April 2022 (HEDNA) which provides an update to the figures in the SHMA which identified the total housing need in the Birmingham over the development plan period from 2011 to 2031. The Council in its evidence provides a table showing completions by size compared to the preferred SHMA mix for the period 2011 to 2021, showing a surplus of 3,999 one bedroom properties and a shortfall of 2,308 three bedroom properties. This table excludes student accommodation, HMO and conversion completions.
8. In the final comments the appellant draws my attention to paragraph 3.27 of the HEDNA which states that the most common size of home is three bedrooms with one bedroom being the least common. This paragraph is in relation to the Birmingham area as a whole and not just the area described as Central where the appeal house is located. In any case whilst the evidence provided by the appellant demonstrates a demand for HMO's, the evidence also shows a demand for 3 bedroom housing and that the delivery of such housing is falling below the supply of 1 bedroom properties. The statement provided by the appellant does not demonstrate that there is any established lack of demand for the single-family use of the property concerned, based on local housing market circumstances at the time, and as such the conversion of the property is contrary to the Council's HMOSPD guidance.
9. Although the conversion of this house to a HMO contributes to the provision of housing need, meeting one of the wider objectives of the BDP, which seeks to make provision for a significant increase in the City's population, the evidence demonstrates that the conversion contributes to the reduction in choice of housing size, types and tenure in the area which is contrary to developing sustainable neighbourhoods another of the wider BDP objectives. A single three bedroom house provides a limited contribution to current supply of three bedroom houses, but in the context of an area which has such a large imbalance of housing, any further loss of family housing would be significant.

10. The appellant has provided evidence including emails from two property agents which show a demand for HMO accommodation in the area, including at the appeal site. However, whilst this may be the case, it does not alter the fact that there is also a need for 3 bedroom dwellings, a need which evidence in the SHMA and HEDNA suggest is greater than that for HMOs. The appellant's evidence regarding population change in Birmingham shows an increase in younger people and a decrease in people aged 40-49. However, notwithstanding this and the fact that there may well be changes in demand for HMO accommodation post Covid, this does not mean that there is no longer a demand for family accommodation as evidenced by the Council's figures. Whilst the HS2 construction project will create additional jobs in the area, there is no evidence to show how much and what type of accommodation this would generate
11. The appellant suggests that the location of family housing 0.7 miles from the city centre is not ideal. However, at my site visit I was able to walk to a park, past a nearby school and saw that there were plenty of shops nearby. Therefore, I have no reason to believe that the area cannot support family accommodation.
12. Consequently, based on the evidence before me, the development results in the loss of a family dwelling in an area where the demand for such dwellings exceeds supply and exceeds that for HMOs. The development is therefore contrary to policies PG3, TP27 and TP30 of the BDP, and Policy DM11 of the DMBDP, the aims of the ANLAAP to improve the housing stock in respect of a lack of family housing, and contrary to relevant policies in the National Planning Policy Framework (Framework). These policies and this guidance seek amongst other things that all new residential development demonstrates that it is meeting the requirements of creating sustainable neighbourhoods and that a sufficient number and range of homes can be provided to meet the needs of present and future generations.

Living conditions

13. The layout of the communal kitchen/living/dining room has the living/dining room to the front of the house, with open plan to a kitchen area located centrally with a corridor leading from the kitchen, providing access to two bedrooms and a glazed door with access to the rear garden. Despite the kitchen area being positioned centrally within the house, the layout ensures that food storage cupboards/fridges are located in areas of less daylight, while both the hob and sink is located where there is natural daylight, from both the front window and rear door window, benefitting areas of the kitchen where there is prolonged activity. Whilst I accept that the layout of this multi-functioning room could change over time, the current layout demonstrates that it can be laid out in such a way so as provide adequate levels of daylight.
14. At the site visit I saw that the kitchen, although narrow, provides sufficient space to allow more than one person to cook at the same time, allowing the space to satisfactorily function as a kitchen.
15. The Council has provided a copy of a guide for property and management standards applicable to HMOs and has also referred to the SPD in relation to this issue. In respect of the communal kitchen/living/dining room, at my site visit I could not see any reason why these standards were not being met, and the Council confirms that the floor space of the communal kitchen/living/dining

room complies with these requirements. Having regard to this, I conclude that the layout is satisfactory.

16. The Council's SPD and the Birmingham Design Guide – Healthy Living and Working Places City Manual (adopted September 2022) (BDG) sets out that 10 square metres of outdoor amenity space per resident should be provided. The Council states that as a minimum, the development requires 60m². The development provides 21m². For a 3 bedroom family home the BDG requires a minimum outdoor amenity space of 70m². Therefore, as a 3 bedroom house, the size of the outdoor amenity space at the appeal house was well below the standards as set out in the BDG and SPD. Similarly, the size of the outdoor amenity space serving the HMO is also below standards, albeit with less of a deficit. However, notwithstanding any breach of the standards, the external amenity area, although small, is private and has sufficient space to dry clothes. In addition, the front outdoor grass area and nearby park both provide alternative outdoor space close by for occupants. Consequently, an adequately sized outdoor amenity is available for occupiers.
17. Occupiers have satisfactory living conditions having regard to the layout of and daylight within the communal kitchen/living/dining room and the size of the external amenity area. The development therefore accords with policies PG3 and TP27 of the BDP, policies DM2, DM10 and DM11 of the DMBDP and relevant policies in the Framework. These policies, amongst other things, seek that all development is appropriate to its location and does not result in unacceptable adverse impacts on the amenity of occupiers. Whilst the development does not accord with all of the relevant guidance contained within the BDG, for the reasons stated, it provides satisfactory living conditions for occupiers.

Other Matters

18. The Council has acknowledged that it cannot currently demonstrate a five year housing land supply, though there is no conclusive evidence about the extent of the shortfall. In such circumstances, paragraph 11(d) of the Framework indicates that the policies which are most important for determining the application are out of date and that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The development provides a HMO instead of a 3 bedroom dwelling. Given that it replaces one type of residential development with another, it does not result in the provision of an additional dwelling so does not help to address the Council's housing supply. Nevertheless, it provides a different type of accommodation, albeit one that appears to be less in demand than the one it replaces. Given this and the scale of the development, it is unlikely to result in any additional social and economic benefits over and above a single dwelling. Therefore, in this case, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including those seeking to boost the supply of homes and achieving well designed places. The development does not therefore benefit from the presumption in favour of sustainable development.

Conclusion

20. I have found that occupiers of the HMO have satisfactory living conditions having regard to the layout of and daylight within the communal kitchen/living/dining room and the size of the external amenity area. However, the development results in the loss of a family dwelling in an area where the demand for such dwellings exceeds supply and exceeds that for HMOs.
21. As stated, the development is contrary to a number of development plan policies and although the Council's five year housing land supply position means that the most important policies for determining this appeal are considered to be out of date, the development is nevertheless contrary to the development plan when taken as a whole. There are no material considerations that indicate that the appeal should be determined otherwise in accordance with the development plan.
22. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

S Crossen

INSPECTOR