

# Appeal Decision

Site visit made on 1 June 2023

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

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

**Decision date: 22<sup>nd</sup> June 2023**

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**Appeal Ref: APP/P4605/W/22/3297254**

**69 Bournbrook Road, Birmingham B29 7BX**

- 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 Matthew Stewart of Florence Susan Ltd against the decision of Birmingham City Council.
  - The application Ref 2021/07843/PA, dated 7 September 2021, was refused by notice dated 29 October 2021.
  - The development proposed is change of use to HMO.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Development Management in Birmingham Development Plan Document (the DMB) was adopted on 7 December 2021 after the planning application that is the subject of this appeal was determined. Policy DM11 of the DMB is cited in the decision notice. Since the DMB has now been adopted, it carries full weight in my determination of this appeal.

## Main Issue

3. The main issue is the effect of the proposed development on the provision of a balanced community, with particular regard to the number of HMOs in the area and the supply of family housing.

## Reasons

4. Number 69 (No 69) is a detached residential dwelling, falling within Class C3. It is positioned between a 7 bedroom large HMO at Number 73 (No 73) and a children's home at Number 67 (No 67). The Council states this is still operational as a children's home whilst the appellant states that this building is being used for student letting. Either way, No 67 would be a non-family residential use. To the rear, there is a development of 100 student flats at Beechenhurst, 10 Serpentine Road and an additional HMO at 30 Serpentine Road.
5. Policy DM11 of the DMB sets out that the conversion of existing dwellinghouses to Houses in Multiple Occupation (HMO) should protect residential amenity and the character of the area. It sets out a number of criteria that should be met. Relevant to this main issue are criteria a) and c). These state that conversions to HMOs will not be permitted where they would a) result in this type of accommodation forming over 10% of the number of residential properties

within a 100 metre radius of the application site and c) not lead to a continuous frontage of three or more HMOs or non-family residential uses. Part 2 of the policy states that where criteria a) and c) have already been breached planning permission will only be granted in exceptional circumstances. These are set out in the supporting text of the policy which explains that this may occur where the concentration of HMOs in an area may be at such a point that the introduction of any new HMO would not change the character of the area.

6. The Council's submissions indicate that within a 100m radius of the appeal property there are 40 residential properties. Of these properties and including the appeal property as a proposed HMO, 19 are identified as being HMOs. This equates to 47.5% of houses. The appellant has suggested the figure is 44.7% of houses but considers it is likely to be greater. In either scenario, criterion a) of Policy DM11 has already been breached. The proposal would also result in three consecutive properties being in a non-family residential use. As such, it would breach criterion c) of the policy.
7. Given that more than 50% of the properties within the 100m radius would not be HMOs, there remains a strong presence of family housing within the area. In such circumstances, an increase in HMOs would erode the existing mix and balance of households within the area, to the detriment of its character.
8. The section of Bournbrook Road is a dual carriageway. The appeal property is located on the east side of the road which characterised by detached and semi-detached residential properties, some of which have been converted into HMOs. The west side of the road, comprising terraces and semi-detached properties, has a significant number of HMOs. It is possible that there are hidden HMOs in the area too which would have pre-dated a city-wide Article 4 Direction, brought into effect on 8 June 2020, removing permitted development rights for the conversion of houses falling within Class C3 of the UCO to small HMOs with Class C4.
9. The prevalence of HMOs on the west side of the road has given rise to a high number of HMOs within the 100m radius. Whilst these are separated by the central reservation along the dual carriageway, they nevertheless influence the character on both sides of the road. There is no justification to apply the 100m radius approach differently or to adjust the search area to take into account the concentration of HMOs opposite. Furthermore, there are some HMOs on the east side of the road and allowing more conversions would gradually erode the character and balanced community on that side of the road. Cumulatively, the character of the area would be dominated by the HMO accommodation. Exceptional circumstances do not exist to enable this conversion.
10. Policy TP27 of the Birmingham Development Plan 2017 (the BDP) seeks the creation of sustainable neighbourhoods. In support of this it seeks a wide choice of housing size, types and tenures to ensure balanced communities. Criterion d) of Policy DM11 sets out that the conversion of existing dwellinghouses will be permitted where they would not result in the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies. Paragraph 4.24 to that Policy DM11 states that the Council's Strategic Housing Market Assessment 2013 indicates a need for accommodation of all sizes but the greatest need is for larger, 3 and 4 or more bedroom homes.

11. The Council is concerned that there would be a loss of an existing 4 bedroom family dwelling. The existing plans indicate that No 69, as currently arranged, has 2 bedrooms. It is nevertheless a sizeable property that, in an alternative configuration, could provide additional bedrooms and, according to submissions, has done so in the past, having previously been a 3 bedroom property. It is therefore reasonable to assess this property in terms of the loss of a family-sized dwelling. The existing property contributes to the overall housing mix in the area.
12. The proposal would result in a loss of family size housing which would reduce the overall supply of such housing. This would undermine the Council's approach to supporting sustainable neighbourhoods and balanced communities. As such, criterion d) of Policy DM11 would not be met.
13. No 69 is sandwiched between two non-family residential uses. However, I have no substantive evidence that it would not sell for family accommodation.
14. I have been referred to two appeal decisions<sup>1</sup> in respect of schemes for the conversion of dwellings to an HMO along Bournbrook Road. However, these relate to developments on the opposite side of Bournbrook Road where there is an existing high concentration of HMOs. They also pre-date the city-wide Article 4 direction where a change of use to a small HMO could occur along Bournbrook Road without the need for planning permission. Similarly, more recent Council decisions<sup>2</sup>, whilst post-dating the city-wide Article 4 direction, related to proposals for conversions on the west side of Bournbrook Road where the character is different. These decisions do not alter my findings on the appeal before me.
15. My attention has been to planning permission<sup>3</sup> granted for the retention of No 73 as a large HMO. In that case, the Council determined that the use of the property as a 7 bedroom HMO would not have a significant further harmful impact on the character of the Bournbrook area. However, that decision predated the adoption of the DMB. It was also made in the context of adjacent properties not being in a non-residential family use. The circumstances are not the same in the appeal before me.
16. The Council previously excluded the Bournbrook area out of an earlier Article 4 direction restricting the conversion of houses to small HMOs. However, that has now been superseded by the city-wide Article 4 direction which does apply to the Bournbrook area.
17. I conclude that the proposal would adversely affect balanced communities due to the overconcentration of HMOs in the area. It would therefore conflict with Policies DM11 and TP27 as referred to above. It would also conflict with Policy PG3 of the BDP and Saved Policies 8.24 and 8.25 of the Birmingham Development Plan Document, the Wider Selly Oak Supplementary Planning Document 2015 and the National Planning Policy Framework. Together these require development to contribute to a strong sense of place and sustainable neighbourhoods through providing a wide choice of housing sizes, types and tenures to ensure balanced communities, taking into account the amount of provision locally.

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<sup>1</sup> APP/P4605/W/19/3242217 and APP/P4605/W/19/3242214

<sup>2</sup> Council Ref: 2020/09824/PA and 2021/02897/PA

<sup>3</sup> Council Ref: 2020/07994/PA

## **Other Matters**

18. The appeal site is a walkable distance to local services and facilities as well as public transport. The proposed accommodation would comply with requirements in terms of room sizes and the provision of outdoor amenity space, car and cycle parking. The proposal would not cause an undue loss of residential amenity to neighbouring occupants. It would also not adversely affect the setting of the Selly Park Conservation Area.
19. In addition, I appreciate that there is considerable demand for additional student accommodation for the University of Birmingham which this proposal could contribute to. However, these factors do not outweigh the need to protect balanced communities, the character of the area and the supply of family housing.

## **Conclusion**

20. For the reasons set out above, I conclude that the appeal should be dismissed.

*Rachael Pipkin*

INSPECTOR