



Appeal Decision

Site visit made on 29 June 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2023

Appeal Ref: APP/P4605/W/23/3314255

140 Bournbrook Road, Birmingham B29 7DD

- 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 R Masaud against the decision of Birmingham City Council.
 - The application Ref 2022/04965/PA, dated 20 June 2022, was refused by notice dated 11 August 2022.
 - The development proposed is Change of use from a 7-bedroom HMO to an 8-bedroom HMO.
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Decision

1. The appeal is allowed and planning permission is granted for Change of use from a 7-bedroom HMO to an 8-bedroom HMO at 140 Bournbrook Road, Birmingham B29 7DD, in accordance with the terms of the application, Ref 2022/04965/PA, dated 20 June 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The use as an 8 bedroom House in Multiple Occupation (HMO) has commenced. Nevertheless, I have based my decision on the plans before me.

Main Issue

3. The main issue is whether the development would provide satisfactory living conditions for the future occupiers, with particular regard to outlook from a ground floor rear bedroom.

Reasons

4. The appeal site comprises a terraced property within a largely residential area. The property is presently in use as a large HMO, with 8 bedrooms spread over three floors. A combined kitchen, lounge and diner is located at the rear of the ground floor, with access onto a private garden.
5. Planning permission has previously been granted for an HMO for up to 7 people¹. The main area of dispute between the parties relates to an eighth bedroom positioned towards the rear of the ground floor and the level of outlook afforded to it. No concerns are raised relating to the size of this bedroom, the size and living conditions of any other bedrooms, or the size and living conditions of the communal space that would be available to the future occupiers. Having visited the property, I have no reason to disagree.

¹ 2022/08143/PA

6. The proposal would provide permanent housing accommodation on a shared basis. Whilst the communal space provided is of a satisfactory standard, it remains necessary to ensure that private space is to an acceptable standard also. Future occupiers may not wish to spend the majority of their time within communal areas, and it would be unreasonable to expect them to do so.
7. The ground floor rear bedroom is served by a wide window, with an outlook partly onto a boundary fence. However, due to the difference between internal and external levels, the outlook also comprises the two-storey projection extending from the rear of the adjoining property, No 138 Bournbrook Road, which is visible over this fence. Trees at the rear of this neighbouring property are visible in more oblique views. Whilst the fence is separated from the window only by a path providing access to the rear garden, due to its lower height when viewed internally, the fence does not dominate the view from this bedroom window and it does not restrict the level of light to an unacceptable level. Whilst the two-storey projection of the neighbouring property does take up a large portion of the available view, it is not so close to this bedroom window that it appears overly dominant or oppressive.
8. As such, the appeal scheme would provide satisfactory living conditions for the future occupiers, with particular regard to outlook from the ground floor rear bedroom window. The development complies with policies DM2 and DM11 of the Birmingham Plan 2031, Development Management in Birmingham, Development Plan Document December 2021 and the Council's Houses in Multiple Occupation Supplementary Planning Document, which collectively, and amongst other matters, seek to ensure that all new development provides high quality accommodation with adequate living space, that does not result in an unacceptable adverse impact on the amenity of occupiers. Additionally, the development accords with the requirements of paragraph 130 of the National Planning Policy Framework which requires the creation of places with a high standard of amenity for existing and future users.
9. Whilst I note the decision notice also cites policy PG3 of the Birmingham Plan 2031, Birmingham Development Plan, Part of Birmingham's Local Plan, Planning for Sustainable Growth, Adopted January 2017 (LP), this policy relates to place making and is not directly relevant to this main issue.

Other Matters

10. LP policy TP27 requires all new development to contribute to creating sustainable neighbourhoods, including through the provision of convenient options to travel by foot, bicycle and public transport. The purpose of the Birmingham Parking Supplementary Planning Document, November 2021 (BPSPD), is to help deliver the objectives of the LP and it sets out that one secure, covered cycle storage space is required per bedroom. No details of cycle storage are provided on the plans, but opportunity exists to deliver such facilities. This could be secured through the imposition of a suitably worded condition, to ensure the requirements of LP policy TP27 are met.
11. Representations received from the public reference external works to the property, however none are proposed as part of the appeal scheme. Concerns are expressed as to the amenity of residents, arising from a 10-bedroom HMO, which is not the development applied for.

12. The Council has raised no concerns with either the impact of the proposal on living conditions of occupiers of neighbouring properties, or with the outlook from a second-floor bedroom window. Having viewed the property internally and its relationship with neighbouring properties, I have no reason to disagree.
13. The intensification of existing problems with waste management is raised as a further issue. However, there is very limited information available on this matter and again, the Council has not raised similar concerns. Based on the information before me, I have no reason to conclude that waste could not be appropriately managed.

Conditions

14. I have imposed a condition specifying the approved plans as this provides certainty as to the layout of the HMO. I have also imposed a condition to limit the number of residents to 8 to regulate the living conditions of future occupiers, and the overall effect of the development on the locality.
15. Condition 3 is imposed to ensure that secure cycle parking provision is provided for the number of intended occupiers. Given the retrospective nature of the proposal, I have considered alternative wording options for this condition and sought the views of the parties. However, the wording imposed reflects that originally suggested by the Council, albeit it requires implementation within a specified period, rather than prior to occupation.

Conclusion

16. For the reasons outlined above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

S Brook

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 0364/001, Drawing No 0364/002 Rev A, Drawing No 0364/003 Rev A, Drawing No 0364/004.
- 2) The number of persons residing at the premises shall not exceed 8 at any one time.
- 3) Within 3 months of the date of this decision, secure and covered storage for 8 cycles shall be provided within the curtilage of the property and maintained thereafter.