



Appeal Decision

Site visit made on 30 August 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17th October 2023

Appeal Ref: APP/P4605/W/23/3319707

46 Birchwood Crescent, Birmingham B12 8BN

- 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 Junaid Raza against the decision of Birmingham City Council.
 - The application Ref 2023/00269/PA, dated 13 January 2023, was refused by notice dated 9 March 2023.
 - The development proposed is the change of use from a 3-bed (C3 Use) dwelling house to small (C4 Use) HMO.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would result in the unacceptable loss of family housing stock.

Reasons

3. The appeal property is an end of terrace dwelling located in an established residential area. The proposal would involve the change of use from a residential dwelling in use class C3 to a small house in multiple occupation (HMO) in use class C4.
4. Policy DM11 of the Development Management in Birmingham Development Plan Document, December 2021 (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. In the Officer's report, the Council confirm that the proposal would not lead to HMOs forming over 10 per cent of the residential properties within a 100m radius of the site.
5. Similarly, the proposal would not result in a family dwelling house being sandwiched between two HMOs, would not lead to a continuous frontage of three or more HMOs, would not give rise to unacceptable adverse cumulative impacts on amenity, character, appearance, highway safety or parking and would provide high quality accommodation with adequate living space. As a result, in many respects the proposal would be acceptable and accord with the majority of the criteria set out in Policy DM11.
6. However, the Council consider that the proposal would result in the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies, namely the loss of a three-bed family house. In support, the Council reference the Birmingham Housing and Economic

Development Needs Assessment (HEDNA) which indicates that the proportion of households with dependent children in Birmingham is higher than both the regional and national figures with 34% of households containing dependent children. In terms of housing need within the market housing sector, the main focus is on 3-bedroom homes. HEDNA also indicates that there has been significantly more 1 and 2 bedroom new homes completed compared to 3 and 4+ homes, particularly since 2015/2016.

7. This situation is generally reflected in the Councils Houses in Multiple Occupation Supplementary Planning Document, April 2022, (HMO SPD) which sets out detailed guidance to assess planning applications for HMOs, in support of DPD Policy DM11. This highlights that there is a continued demand for 3+ bedroom homes from family households and goes on to set out that proposal comprising the conversion of an existing C3 dwellinghouse to an HMO must demonstrate there is an established lack of demand for the single family use of the property based on local housing market circumstances at the time and evidence that the property has been openly marketed at a city wide level at a reasonable purchase or rental price for a period of at least six months should be submitted.
8. Overall, I consider that the current 3-bedroom residential dwelling is a use that meets local needs and contributes to the creation of a mixed, balanced and sustainable neighbourhood in accordance with Policy TP30 of the Birmingham Development Plan (2017) (BDP). As a result, unless the appellant can demonstrate there is an established lack of demand for the existing use of the property its loss would result in the loss of an existing use that makes an important contribution to the Council's objectives, strategies and policies.
9. Although, the appellant has provided some general information about the number of 3+ bedroom residential properties that can be found for sale within a certain radius of the appeal site and provided some factors why the supply of HMOs is decreasing as well as other matters they say supports the provision of additional HMOs, they have not provided sufficient evidence to demonstrate there is a lack of demand for the current use such as evidence that the appeal property has been openly marketed.
10. I accept that HMOs can form part of a balanced housing market and the change of use would make effective use of the appeal site in accordance with sustainable urban development principles. However, the evidence before me clearly demonstrates that there is an existing demand for family dwellings and in this case, it has not been adequately demonstrated that the proposed change of use would make best use of the existing dwelling.
11. It follows that compliance has not been demonstrated with Policy TP35 of the BDP, which seeks to make best use of the existing dwelling stock. Further, it would not accord with Policy TP30 of the BDP which seeks to ensure new housing meets local needs and supports the provision of balanced neighbourhoods. It would also be contrary to paragraph 124 of the Framework, which seeks to ensure proposals make efficient use of land, considering the identified need for different types of housing.
12. I therefore conclude that the proposal would result in the unacceptable loss of family housing stock in conflict with BDP Policies TP30 and TP35 and DPD Policy DM11 as well as the HMO SPD where the relevant policies and guidance are summarised above.

Other Matters

13. I have taken account of the other appeal decisions that have been brought to my attention. However, the circumstances of these other cases are materially different. For example, the appeal in relation to 12 Goss Croft predates the adoption of the HMO SPD and although the appeals at 50 Florence Road and 3 Glencoe Road postdate the adoption of the HMO SPD, neither appear to have made reference to this document and both appeals have been dismissed for other substantive reasons and are located in different parts of the City. This diminishes the weight I have afforded them in the determination of the appeal. Further, although the appeal at 69 Laurel Road was allowed, the Inspector in that case specifically recognised that there was a shortfall of 3 and 4 bed dwellings but as the proposal involved a 5–7 bedroom property they did not consider its loss would have a significant impact on the identified housing need. Clearly therefore, the circumstances are materially different from the case before me. In any event, the existence of these other cases does not justify development that I have found conflicts with the development plan.
14. I note the appellant's point that applying the strict application of the HEDNA data would ultimately result in almost any conversion of an existing residential properties to an HMO being resisted due to the loss of a family house and that refusal may show that the needs of key workers are being ignored. However, this case has been determined on its own particular merits taking account of the available evidence which indicates that there is an existing demand for family dwellings, and it has not been adequately demonstrated that the proposed change of use would make best use of the existing dwelling. On that basis, for the reasons set out above, I have found that the proposal conflicts with the development plan and the fact that the appeal property cannot change use to an HMO does not alter my findings.

Conclusion

15. For the reasons given above I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the proposal should be determined otherwise in accordance with it. Therefore, the appeal is dismissed.

S Rawle

INSPECTOR