



Appeal Decision

Site visit made on 22 August 2023

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2023

Appeal Ref: APP/P4605/W/23/3318932

10 Wheelleys Road, Edgbaston, Birmingham B15 2LD

- 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 Shiraz Boghani against the decision of Birmingham City Council.
- The application Ref 2021/08697/PA, dated 7 October 2021, was refused by notice dated 19 October 2022.
- The development proposed is use as 4 bedroom House in Multiple Occupation (HMO) in connection with the adjacent Community Centre and Place of Worship and insertion of three rooflights.

Decision

1. The appeal is allowed and planning permission is granted for use as 4 bedroom House in Multiple Occupation (HMO) in connection with the adjacent Community Centre and Place of Worship and insertion of three rooflights at 10 Wheelleys Road, Birmingham B15 2LD in accordance with the terms of the application, Ref 2021/08697/PA, dated 7 October 2021, subject to the conditions contained in Schedule 1 of this decision.

Preliminary Matter

2. The existing and proposed elevation plans show the rear outrigger with a flat roof. However, having visited the site the rear outrigger has a mono pitched roof. Whilst this is a discrepancy with the plans', planning permission is not sought to alter the roof of the outrigger and this decision would not grant permission to make this alteration. Nor would the difference in the roof shape affect my consideration of the matters in this appeal.

Main Issues

3. The main issues are the effect of the proposed development upon the living conditions of the occupiers of the proposed HMO with regard to outlook and both internal and external living space; and whether the proposed development would preserve or enhance the character or appearance of the Edgbaston Conservation Area (CA).

Reasons

Living Conditions

4. The kitchen/living room would be located in the loft which is accessed via a staircase. The building has a shallow pitched roof which limits the amount of usable space within this room. However, the kitchen cupboards would be located along the front and rear of the building where the roof slopes and this would leave most of the central area with ample usable space. There is also

space on the landing outside of the proposed kitchen where additional appliances or even a small kitchen table could be left. The council notes that only two chairs are shown on the proposed floor plan. However, based on the proposed floor plan there would be space for a kitchen table that could seat four people as well as a separate seating area to watch tv or relax.

5. Furthermore, the bedrooms would be relatively large with their own en-suite bathroom. These would exceed the Technical Housing Standards – Nationally Described Space Standard 2015 (Standards) for a single occupancy bedroom. As such, the occupants would have ample space within their bedrooms and would not be solely reliant on the kitchen/living room for internal living space.
6. The loft space is proposed to have three rooflights which would provide ample natural light throughout most of the day as there are no large buildings around the site that would overshadow this room. Even if the rooflight on the front roof slope was not installed this room would still receive natural light throughout most of the day. Given that these would be rooflights, the outlook from the room would be limited, although the view from the windows themselves would not be enclosed by any development. However, the occupants would also have their bedrooms which each have a large window with a good outlook either over the street to the front or the canal to the rear. The occupiers would therefore not be solely reliant on the rooflights for their outlook whilst living in the accommodation.
7. To the rear of the building is a car park which is connected to a community centre and place of worship. The appeal buildings permitted use was as office space in connection with the community centre and based on the evidence before me the garden was given over to be used as a car park. As a result, the proposed HMO would have no outdoor amenity space to the rear. Whilst there is a small area to the front of the house, this would not provide private secure amenity space. There are, however, several public parks located within close walking distance of the site as well as facilities in Birmingham city centre. Given that each bedroom would be occupied by a single individual there would be less demand for outdoor living space compared to a single household. Many of the future occupiers' outdoor social needs would be provided for by the surrounding public facilities. Additionally, the large bedrooms would provide space for the future occupants' day to day needs like drying washing that would typically take place in gardens.
8. Therefore, the proposed development would not harm the living conditions of the future occupants of the HMO. Consequently, the proposal would accord with Policies PG3 and TP27 of the Birmingham Plan 2031 Birmingham Development Plan (BP) adopted 2017 as well as Policies DM2 and DM11 of the Development Management in Birmingham Development Plan Document (DMB) adopted 2021. The scheme would also accord with the Birmingham Design Guide Supplementary Planning Document (SPD) (2022) and paragraph 130 f) of the National Planning Policy Framework (the Framework). These seek, amongst other matters, to ensure developments have access to high quality and usable amenity space and have a high standard of amenity for existing and future users.

Whether the proposal would preserve or enhance the character or appearance of the Conservation Area

9. The site is located within the Edgbaston Conservation Area. As such I have a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to ensure special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA. I give great weight and importance to the conservation of the CA as a designated heritage asset.
10. The CA's Character Appraisal (CACA) identifies that the CA is characteristically green, exclusive and suburban, and primarily residential in nature. It has a range of architectural styles, and the CACA describes it as providing the most complete history of changing fashions in domestic architectural design in Birmingham. Differing plot sizes and layouts, building sizes and settings, orientations, footprints and architectural styles avoid excessive uniformity whilst maintaining a rural feel consistent with the 19th Century ideal of 'rus in urbe' which the CACA notes is a characteristic of the CA.
11. 10 Wheeleys Road is a semi-detached Victorian property. Whilst the building was previously used as an office the building appears to have originally been a dwelling and it has many of the characteristics associated with this use. The two connected buildings both have bay windows with shallow pitched roofs as well as soldier brick courses above the windows and pillars and lintels above the front doors. Whilst the attached dwelling has been rendered, the consistency in the design of the two dwellings contributes to the overall appearance of the two buildings. The balance maintained across the two dwellings contributes to the significance of the CA in this location. Given the limited scale of the two dwellings in relation to the CA as a whole, this contribution is limited.
12. Within the immediate street scene there are a limited number of dwellings that have rooflights within the front roofslope and the attached dwelling does not have one. The roofs of the buildings are generally clean and unfussy with limited architectural details. However, the CA covers a large area and there are dwellings within the wider CA that have front rooflights.
13. The proposed conservation rooflight would be inserted flush with the roof which would limit the protrusion of the window when viewed within the roof as well as in connection with the attached building. The limited size of the rooflight located near to the apex of the roof would also ensure that the front roofslope would not become crowded and would retain its clean and unfussy appearance. Overall, this would ensure that the proposed rooflight would not detract from the balanced appearance across the two dwellings.
14. The council did not object to the rear rooflights, and I see no reason to disagree. These two rooflights would also only occupy a small proportion of the rear roof and would not clutter it. As such, when viewed from the canal the rooflights would preserve the appearance of the house and its limited contribution towards the visual appearance and heritage value of the canal.
15. Given the limited scale of the front rooflight this would have a neutral impact on the contribution the dwelling makes to the CA. In the immediate area there are very few houses that have front rooflights and as a result the cumulative effect of this rooflight alongside the others within the CA would not be harmful

in this instance. Accordingly, the scheme would preserve the character and appearance of the CA as a whole.

16. Therefore, the proposal would accord with Policies PG3 and TP12 of the BDP, the SPD, the Edgbaston Conservation Area Character Appraisal Supplementary Planning Guidance (1998) and the heritage section of the Framework. These seek, amongst other matters, to ensure proposals preserve the character and appearance of CA's.

Other Matters

17. Planning permission has already been granted for the residential use of this building as temporary accommodation (Ref: 2022/08223/PA). Given that both schemes propose the same number of single occupancy bedrooms the noise generated by the permitted use would not be significantly different to that proposed. Furthermore, the noise generated by the residential use would not be unusual in a residential area. The dwelling is proposed to be occupied by four individuals and as such the level of noise generated would be limited, even when compared to a single household. This would also be mitigated by a Noise Insulation Scheme that would be controlled via a condition to protect the neighbouring occupants' living conditions.
18. The proposed occupiers of the building may own a vehicle which could be parked on the surrounding roads. Whilst the Birmingham Parking Supplementary Planning Document (2021) requires 0.5 unallocated parking spaces per bedroom, it does also state that alternative provision levels can be considered on a case-by-case basis. The Transport Officer at the council did not object to the application and there is no technical evidence before me that the surrounding roads do not have the capacity for any additional parked vehicles or that any additional parked vehicles connected to this use would have an unacceptable impact on highway safety. Additionally, there are various public transport alternatives within a short walking distance of the site which would reduce the reliance on private car use.
19. The council has confirmed that there is not an overconcentration of HMOs in the immediate area to warrant concerns relating to housing mix. There is no substantive evidence before me to disagree with the council's conclusion on this matter.
20. Matters relating to party walls, fire safety and sewage disposal would be dealt with under different legislation. Furthermore, there is nothing before me that would lead me to conclude that wastewater or sewage could not be treated and disposed of properly.
21. Each bedroom would have ample space for furniture without the bedroom becoming cluttered. These rooms would provide an adequate amount of space to provide suitable living conditions for the future occupants who would each have their own private space.
22. Whilst I note that the Council cannot demonstrate a five-year supply of deliverable housing sites, application of paragraph 11(d) from the Framework would make no difference to the appeal outcome because the Framework and the development plan in this case are pulling in the same direction.

Conditions

23. I have considered the planning conditions suggested by the council and the appellant, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording to ensure they are reasonable given the scale of the development and site context and to ensure that they meet all other Framework tests for conditions.
24. Further to the statutory commencement condition, it is necessary in the interest of certainty that the development is carried out in accordance with the approved plans.
25. Given that the site is located within a CA, it is necessary to ensure the materials used in the construction of the rooflights preserves the character and appearance of the CA.
26. In order to encourage more sustainable and healthy modes of travel, it is necessary to impose a planning condition relating to the provision and retention of cycle/motorcycle parking for the occupants of the property.
27. Whilst the council did not include them within its suggested conditions, several conditions were suggested by the Design Out Crime Officer at application stage and as such the appellant has had the opportunity to comment on them. Given the limited size of the scheme the measures relating to CCTV and the remote access control system as well as other matters would be disproportionate and thus unreasonable. However, the scheme could be occupied by four unconnected people with shared living space. In the interest of designing out crime and the privacy and security of the future occupiers, a condition is necessary regarding the installation PAS 24 or equivalent doors and a robust access control system.
28. A condition controlling the number of occupants to no more than 4 as well as a noise insulation scheme would be necessary in the interests of the living conditions of the neighbouring occupiers with regard to noise and disturbance.
29. A condition was suggested by the council's Environmental Pollution Control section to control the residential use to be only by members of the adjacent community centre and place of worship. However, there is no persuasive justification before me that it is necessary to control the occupancy of this building in this way. Whether or not occupation is linked to the community centre, the building would likely be used in a similar manner with similar effects upon living conditions of the future and neighbouring occupiers as well as other matters. Additionally, the council did not include this condition with its suggested conditions. Therefore, it would not be necessary to control who could occupy the development.

Conclusion

30. For the reasons given above the development would accord with the development plan as a whole and the other considerations would not indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

G Sibley

INSPECTOR

Schedule 1

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: DWG No. 100 Revision 02; DWG No. 202 Revision 01; and DWG No. 203 Revision 01.
- 3) Details of the rooflights hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to their use. The development shall be carried out in accordance with the approved details and retained thereafter.
- 4) Details of the provisions for the secure, and where appropriate, covered storage for cycles and motorcycles shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved. Provision shall thereafter be implemented and maintained in accordance with the approved details.
- 5) Prior to the occupation of the development hereby approved, a scheme of noise insulation shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented prior to first occupation in accordance with the approved details to ensure that all windows, any other glazed areas and external doors to habitable rooms on all elevations provide a weighted sounds reduction index ($R_w + C_{tr}$) of at least 32dB. Any ventilation on this elevation to habitable rooms shall be provided by means of acoustic vents achieving weighted element normalised level difference ($D_{n,e,w} + C_{tr}$) of at least 38dB.
- 6) The development shall be implemented to include the following security measures:
 - all internal 'bedroom' doors and the communal front door shall be PAS 24 or equivalent standard; and
 - a robust access control system with video monitoring shall be installed in connection to the external doors.

These measures shall be fully implemented prior to the first occupation of the hereby approved development and retained thereafter.
- 7) There shall be no more than 4 occupants in residence at the property at any time.