



Appeal Decision

Site visit made on 23 January 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2024

Appeal Ref: APP/P4605/W/23/3324449

436 Alum Rock Road, Birmingham B8 3HT

- 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 M Abdullah against the decision of Birmingham City Council.
 - The application Ref 2022/08115/PA, dated 30 October 2022, was refused by notice dated 22 December 2022.
 - The development proposed is described as 'change of use from ground floor from residential to A1 shops and flat on first floor (Application submitted in conjunction with no 434 Alum Rock Rd)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment. Where reference is made in this decision to paragraph numbers, they are taken from the latest version of the Framework.
3. I have also dealt with an appeal, Ref: APP/P4605/W/23/3324452, against the refusal of planning permission for a similar development at the adjoining property, 434 Alum Rock Road. That appeal is the subject of a separate decision.

Main Issues

4. The main issues are:
 - The effect of the development on the supply of family housing;
 - whether the proposed development would be in an appropriate location for a shop, having regard to local and national policies;
 - whether the proposal would provide satisfactory living conditions for future occupiers of the proposed flat, with particular regard to outdoor amenity space; and
 - whether reasonable provision could be made for all people to gain access to the proposed shop.

Reasons

Supply of Family Housing

5. Policy TP35 of the Birmingham Development Plan (BDP) states that best use will be made of the existing dwelling stock. To achieve this the Council will seek to, amongst other things, prevent the loss to other uses (through conversion or redevelopment) of housing which is in good condition or could be restored to good condition at reasonable cost. It also states that the loss will only be permitted if there are good planning justifications or an identified social need for the proposed use. Policy DM12 of the Development Management in Birmingham Development Plan Document 2021 (DPD) sets out criteria that should be satisfied if the conversion of existing dwellinghouses into self-contained dwelling units is to be supported. Amongst them is the requirement that the development does not result in the loss of an existing use that makes an important contribution to the Council objectives, strategies, and policies.
6. The Council states that the highest net change in the number of homes for the period up to 2031, as evidenced in the Strategic Market Housing Assessment (SHMA) as updated in 2021, are for homes with three and four or more bedrooms. However, completions up to 2019 show that most of the housing provision has been in the form of one- and two-bedroom dwellings. The Council further state that the Birmingham Housing and Economic Development Needs Assessment (2022), which is more recent than the SHMA, found that demand is greatest for open market three-bedroom dwellings. This evidence is not disputed by the appellant and highlights the importance of protecting the supply of family sized dwellings in Birmingham.
7. I recognise that the appeal site is located close to commercial properties on a busy and congested road and does not provide dedicated on-site parking. Nonetheless, no substantive evidence has been presented that demonstrates that the appeal property is unsuitable for, or unattractive to, families, or that there is a lack of demand for three-bedroom family homes in this location. As such there is nothing before me that would suggest that it does not make an important contribution to the Council's objectives, strategies, and policies in respect of providing housing for all. Furthermore, no evidence has been advanced that suggests that there is an identified social need for a one-bedroom flat in this location. Consequently, there are no planning justifications for the loss of the existing three-bedroom dwelling that could accommodate a family.
8. Therefore, I conclude that the proposal would have a harmful effect on the supply of family housing in the area, and thus conflict with BDP Policy TP35, DPD Policy DM11 and the Framework which all seek to ensure that a sufficient number and range of homes can be provided to meet present and future needs.

Location

9. BDP Policy TP21 states that the vitality and viability of the centres within an identified network and hierarchy will be maintained and enhanced. It indicates that these centres will be the preferred location for retail, office, and leisure developments and for community facilities. Policy TP21 states that, except for any specific allocations, proposals for main town centre uses outside the centre

boundaries will not be permitted unless they satisfy the requirements set out in national planning policy.

10. Paragraph 91 of the Framework states that a sequential test should be applied to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. It states that applications for main town centre uses, which include shops, should be located in town centres, then in edge of centre locations, and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
11. Alum Rock Road is defined, in BDP Policy TP21, as a District Centre and the main parties agree that the appeal site is approximately 250 metres outside of it.
12. The Appellant's Shopping Centre Monitoring Survey, which was submitted with the planning application, indicates that at that time there were no vacant units. The Appellant further states that no units within the defined centre were being marketed. Nonetheless, the Monitoring Report 2023, which postdates the submission of the planning application, identifies a vacancy rate on Alum Rock Road of 8.67%. On my visit, my observations confirmed that there are some vacancies within the defined centre. Accordingly, based on the information before me, I cannot be certain that there are no available sites in the Alum Rock Road District Centre for the proposed shop. The proposal therefore fails to satisfy the sequential test to which I attach significant weight.
13. The appeal property would be a continuation of an existing row of commercial properties on Alum Rock Road. Even so, whilst I recognise that the appeal proposal would not be isolated from other commercial uses, it would be in a location that is outside of a defined centre and is not, therefore, in a location preferred by policy. In the absence of any evidence to the contrary, I cannot be certain that the proposed retail use would not undermine the vitality and viability of the defined Alum Rock Road District Centre.
14. Consequently, the appeal site is in an inappropriate location for a shop and therefore conflicts with BDP Policy TP21 and paragraphs 90 and 91 of the Framework.

Living conditions

15. City Note LW13 of the Birmingham Design Guide Supplementary Planning Document (SPD) sets out that all residents should have access to private outdoor amenity space of sufficient size and quality to serve the occupants.
16. There is space at the rear of the property, however, this would not be accessible from the proposed flat. As such, the occupants would have no access to private outdoor garden space for purposes such as drying clothes and outdoor recreation. Whilst there is public open space near to the appeal property, that would not address the lack of outdoor garden space as it is not private.
17. The appellant has referred to planning permissions for residential flats above commercial units which do not provide outdoor amenity space in accordance with the SPD. However, I do not have full details of these other schemes and therefore I cannot be certain that there is any direct comparison with the

proposal before me. Whilst consistency of decision making is important, such decisions do not alter my findings from the evidence before me.

18. In conclusion, the development would not provide satisfactory living conditions for future occupiers of the proposed flat, regarding outdoor amenity space. As such, the development would conflict with BDP Policies PG3 and T27, DPD Policy DM3, and the SPD which, amongst other matters, seek to secure high quality accommodation with adequate living space. It would be contrary to the Framework which seeks to secure suitable living conditions for all.

Access

19. It is reasonable and necessary, in the interests of people with mobility impairments, that a suitable access is provided into the proposed shop. I observed that a ramped access is in place to the existing front door, and there is nothing before me that suggests that one could not be provided to the doorway of the proposed shop. I am therefore satisfied that an access ramp could be secured by a planning condition that would ensure people, regardless of their accessibility needs, could access the premises.
20. The proposal could, therefore, make reasonable provision for all people to gain access to the proposed shop. In this regard the proposal would comply with BDP Policy PG3 and the SPD which require provision is made for people with disabilities through carefully considered layouts.

Other Matters

21. I acknowledge that the proposed flat accords with the Nationally Described Spatial Standards, would provide acceptable light and outlook and that access to it is safe and secure. However, these are neutral factors that do not weigh in favour of the proposal.

Conclusion

22. Whilst I have found that the proposal could make reasonable provision for all people to gain access to the proposed shop, this does not outweigh the identified harm arising from the loss of a family home, the inappropriate location of a shop, and the inadequate living conditions. The proposed development, therefore, conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
23. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR