



Appeal Decision

Site visit made on 11 March 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/P4605/W/23/3329655

98 Institute Road, Kings Heath, Birmingham B14 7EU

- 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 Rebecca Hyde against the decision of Birmingham City Council.
 - The application Ref 2023/00278/PA, dated 13 January 2023, was refused by notice dated 28 March 2023.
 - The development proposed is single storey rear extension. Part change of use from C3 to sui generis (beauty treatment rooms).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the location would be suitable for the proposed use.
 - The effect on the character of the area.
 - The effect on the living conditions of future occupiers with regards internal and external amenity space.
 - The loss of a 4 bedroom family dwelling.
 - Parking provision and the effect on highway safety.

Reasons

Location

3. Policy TP21 of the Birmingham Development Plan 2017 (Development Plan) sets out a hierarchy of retail centres across the city. New retail and town centre uses should be directed within the boundaries of a network of centres to ensure their viability and vitality. Development outside designated centres need to be accompanied by a robust sequential test to demonstrate that there are no suitable or available premises within centres that could accommodate the development, in line with national policy.
4. The development includes the relocation of a sui generis use from within Kings Heath District Centre to a location that is not within a defined centre but is within some 300 metres of the Kings Heath District Centre, which the appellant

argues is an edge of centre location. It is also within close proximity of Moseley Local Centre which the Council identifies as having a close relationship with Kings Heath District Centre. There is a sufficient gap and change of character to discern that the appeal site is clearly separate to existing centres.

5. In undertaking a sequential test of Kings Heath the appellant concluded that there were no suitable, available or viable sites within the Kings Heath District Centre that could accommodate the proposed development. Within the centre there is dispute between the parties as to whether No 2A Addison Road would be an appropriate location with the Council stating that the development would generate a need for more than the 33sq metres identified by the appellant.
6. Based on the information provided in the submitted plans I calculate that an area of some 33.6sq metres of space would be required by the development and consequently agree with the appellant that No 2A would be excessive for the appellant's needs, irrespective of other considerations such as the length of the lease at that site and accessibility. On the evidence before me there would be no suitable alternative or available sites within the defined boundaries of Kings Heath District Centre.
7. The appellant has not undertaken a sequential test of Moseley Local Centre arguing that the nature of the business and the size of the development did not justify an assessment beyond Kings Heath District Centre. However, given the close proximity of Moseley Local Centre to Kings Heath District Centre and the relationship between the Kings Heath and Moseley centres I do not consider it unreasonable that the Local Centre should have been included in the sequential test assessment.
8. In the absence of a sequential test assessment of Moseley Local Centre I cannot be satisfied that a sequentially preferable site is not available and as such the development would conflict with the provisions of Policy TP21 of the Development Plan, as outlined above. It would also conflict with the part of Policy TP24 of the Development Plan which supports a diverse range of uses within the hierarchy of centres.

Character of Area

9. Despite the presence of a Wellness Centre opposite the site, the surrounding area is residential in character. The commercial uses on Kings Heath High Street and elsewhere on Institute Road do not alter this from my observations on site.
10. The proposal does not include any external alterations or signage that would make the commercial use of the site readily apparent. The small scale of the extension and its visual appearance as a consequence of its design would be in keeping with other similar development in the road. The development would retain the residential character of the area and as such would not visually introduce a mixed character, as suggested by the Council.
11. I have taken into account the concerns of the Council that the development would set an undesirable precedent for additional development of this nature in residential areas. However, it is an established principle that each development proposal is considered on its own individual merits.
12. The development would not harm the character of the area. As such it would not conflict with the part of Policy PG3 of the Development Plan that requires

new development to reinforce or create a positive sense of place and local distinctiveness with design that responds to site conditions and the local area context.

Living Conditions

Indoors

13. The development would create a 2 bedroom dwelling. There are differences between the parties with regards the internal floorspace of the development but the appellant accepts that unlike the existing 4 bedroom dwelling the proposed development would not comply with nationally described space standards (NDSS) in terms of the requirement for dwellings with 2 or more bed spaces to provide at least one double bedroom that has a floor area of at least 11.5 sq metres.
14. Both bedrooms would fail to meet the standard for a double bedroom and bedroom 2 would fail to meet the standard for a single bedroom. The appellant claims that the proposed living room could be switched with one of the bedrooms. However, given the small size of that bedroom I do not think this is very likely in practical terms, irrespective of whether the NDSS covers floorspace requirements for living rooms.
15. The appellant says that the NDSS does not apply to existing dwellings. The development would create a new dwelling through the proposed change of use alongside the extension. I am of the view that it is therefore applicable in this case. Even if the property could be converted back at a future point in time it does not make the development acceptable.
16. The scheme would fail to provide adequate living space for future occupants, even if the current occupier considers it to be satisfactory. The financial constraints of the appellant do not justify or make the shortcomings acceptable.

Outdoors

17. The Birmingham Design Guide requires 52sq metres of outdoor amenity space for a 2 bedroom dwelling. The appellant says the retained provision would equate to 78.7sq metres, the Council say it would be some 43sq metres.
18. Whilst front gardens can provide outdoor amenity space for residents, I do not consider this to be the case in this instance. The area to the front of the dwelling is very small in terms of depth and very close to the footpath. The low boundary wall would also provide an inadequate level of privacy. In practical terms the area to the front of the dwelling would not provide usable private amenity space.
19. Similarly, to the side of the property there is an access to the proposed beauty treatment rooms and windows serving its waiting room and treatment room. This would render this amenity space unusable during the hours in which the business was operating.
20. When factoring in the car parking space to the rear of the site and the unusable space to the front and side of the property, I am of the view that the usable private amenity space would be closer to the figure presented by the Council than the appellant. As such it would not meet the minimum 52sq metres

required. The quality of the amenity space would be further compromised by the proximity to the car parking space and the fact that it could only be accessed from a gate off Melton Road.

Conclusion on Living Conditions

21. The development would harm the living conditions of future residents with regards indoor and outdoor space. As such it would conflict with Policy DM10 of the Development Management in Birmingham Development Plan Document (DMDPD) which amongst other things states that all residential development is required to meet the minimum Nationally Described Space Standards and provide sufficient private useable outdoor amenity space appropriate to the scale, function and character of the development. It would also conflict with the part of Policy DM2 of the DMDPD which requires that new development should not result in an unacceptable adverse impact on the amenity of occupiers with regards access to high quality and usable amenity space.

Loss of a Family Dwelling

22. The Council's Housing and Economic Development Needs Assessment states that Birmingham has below the national average proportion of 4 bedroom properties. There is a shortage of 4 bedroom properties with the Housing and Economic Development Needs Assessment identifying that since 2011/12 less than 3000 4 or more bedroom properties have been built. The existing dwelling therefore makes a positive contribution to the housing stock of the city and the development would have a harmful impact on the availability of family housing in the area.
23. The development would retain a residential dwelling on the site but it would not meet the demand for 4 bedroom properties. The appellant has identified that the room on the upper floor labelled as a study on the plans could be used as a bedroom, retaining a 3 bedroom dwelling. However, given my findings on the size of the rooms that would be provided through the conversion I disagree that what would be delivered would be a family home.
24. The development would lead to the loss of a family dwelling. As such it would conflict with Policies TP27, TP30 and TP35 of the Development Plan. Amongst other things, these policies require new housing development to create sustainable neighbourhoods characterised by a wide choice of housing, take into account housing market assessment and local market housing trends and prevent the loss of existing dwelling stock through conversion in the absence of good planning justification or an identified social need.

Parking Provision

25. The availability of on street car parking spaces in the immediate vicinity of the site is extremely limited. Few dwellings have off street parking and so there is a high demand for on road parking. The highway is constrained by a significant number of parked vehicles on both sides of the road.
26. Whilst noting the views of the Council's Transport department, the proposed development could create the requirement for up to 4 vehicle parking spaces serving the 2 full time staff and 2 customers at any one time. There would be one car parking space provided on site as part of the development, potentially generating a need for 3 on street spaces. Even if the level of parking spaces needed would be 2-3, in line with the appellant's view, it would still materially

impact on demand in the surrounding streets given the extent to which the surrounding roads are heavily congested.

27. The appellant has identified that 29.1% of current clients drive to the site of the existing salon. The existing salon is close to the site of the proposed development but in a more accessible location, close to the main high street and public transport options. There is little to substantiate the claim that existing modes of transport would continue following relocation. The appellant has also confirmed that the travel information provided is for illustrative purposes only and does not constitute a formal transport assessment. This limits the weight I attach to it.
28. Whilst many businesses operating along Kings Heath High Street may not have on site car parking, the proposal would not be located on Kings Heath High Street. It would be located on a very congested part of the highway network. Whilst 2 public car parks are around 300 metres from the site, they require payment which would be a disincentive to their use and therefore cannot be guaranteed.
29. The appellant says that Institute Road and Melton Road are managed by a private parking company and warden. However, from the evidence before me and my observations on site I am not convinced that there is a suitable mechanism in place to prevent parking on the highway.
30. The appellant says the site does not currently accommodate usable parking provision and so the development would provide a betterment to the current situation. However, the clearing of vegetation and creation of a useable parking space on site is not dependent on the proposed scheme and could be achieved in any event.
31. The development would lead to an increase in on street parking which would pose a risk to highway safety. As such it would conflict with the part of Policy TP44 of the Development Plan which requires the efficient, effective and safe use of the existing transport network. It would also conflict with the part of Policy DM15 of the DMDPD which requires the operational needs of the development to be met in terms of parking provision and that parking proposals should avoid highway safety problems and protect the local amenity and character of the area.

Other Matters

32. The development would create an accessible salon with ground floor access to the treatment rooms. However, this does not outweigh the harm I have identified.

Conclusion

33. The development would not harm the character of the area. However, this is outweighed by the harm generated by the location of the proposal, the effect on the living conditions of future occupants, loss of a family dwelling and inadequate car parking provision. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR