



Appeal Decision

Site visit made on 23 April 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2024

Appeal Ref: APP/P4605/W/23/3334604

16 Varden Croft, Birmingham B5 7LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by NEO Property Management Ltd against the decision of Birmingham City Council.
 - The application Ref is 2023/05553/PA.
 - The development proposed is a change of use from a dwelling house falling within Class C3 of the Town and Country Planning Use Classes Order 1987 (as Amended) (the 1987 Order) to a small House in Multiple Occupation (HMO) (Class C4).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from a dwelling house falling within Class C3 of the Town and Country Planning Use Classes Order 1987 (as Amended) (the 1987 Order) to a small House in Multiple Occupation (HMO) (Class C4) at 16 Varden Croft, Birmingham B5 7LR in accordance with the terms of the application, Ref 2023/05553/PA, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site and Block Plan (Drawing No: 0406/001) and Existing and Proposed Plans (Drawing No: 1).
 - 3) Details of a cycle store for the development hereby permitted shall be submitted to and approved in writing by the LPA. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby permitted and shall be retained thereafter.

Preliminary Matter

2. A revised National Planning Policy Framework (Framework) was published in December 2023. I have had regard to this in reaching my decision.

Main Issue

3. The main issue is whether the development would result in the unacceptable loss of a family dwelling.

Reasons

4. The appeal property comprises of a mid-terrace dwelling that is situated in a predominantly residential area, which is formed of similar short terrace rows.

Policy TP35 of the Birmingham Development Plan (BDP) seeks to prevent the loss of housing to other uses and Policy DM11 of the Development Management in Birmingham Development Plan Document (DMB), which specifically relates to houses in multiple occupation (HMO), sets out, amongst other matters, that the conversion of existing dwellinghouses to be used as HMO's will be permitted where they would not result in the loss of existing uses that make an important contribution to other Council objectives, strategies and policies. Although the Appellant has set out that the former BDP Policy is not clear on whether it relates to changes of use, such as that proposed by this appeal, the supporting text to the policy refers to Birmingham's new housing requirement which would not take HMO's into account and therefore the proposal falls to be considered against this policy.

5. The Houses in Multiple Occupation Supplementary Planning Document (SPD) sets out the need for marketing to be undertaken to demonstrate an established lack of demand for a property in single-family use. Although the Marketing Report¹ submitted to the Council referenced macro-economic factors such as the cost of mortgages as the reason for the lack of interest in the property as a family dwelling, the marketing of the property continued, and further evidence submitted with the appeal confirms that no further viewings or offers have been received subsequently when market conditions have improved.
6. The Council has raised concerns on whether the appeal property was offered at a reasonable purchase price. There will inevitably be differences between the asking price of comparable properties, due to their individual particular circumstances. One nearby property at 60 Varden Croft was sold at a price that was lower than that which the appeal property has been offered at, but it has been explained that this was due to the renovation works that were required. Although no actual evidence has been provided of the sale price of this nearby property, there is no reason to doubt the information presented by the local estate agent, particularly given the absence of contrary evidence by a suitable person in a relevant profession.
7. The Birmingham Housing and Economic Development Needs Assessment (2022) (HEDNA), sets out the importance of existing family dwellings of this size, referencing the significant delivery of smaller units of accommodation, rather than those with three and four or more bedrooms. I have no reason to doubt the overall need for larger properties set out in the HEDNA, but nonetheless, given the more specific local evidence, rather than on a city-wide basis, the appeal proposal would not in this instance result in the loss of housing for which there is demand in the area.
8. The estate agent who has undertaken marketing of the appeal property is experienced in the sale and rental of properties in the City and has set out the demand for HMO accommodation in the area, from young workers who are seeking reasonably priced accommodation in close proximity to the City Centre. The proposal would therefore meet a local market need and provide people with a place to live. In this respect, the HEDNA indicates that there is demand for smaller rental homes and this could be accommodated in locations where there currently do not have many HMOs. In this regard, the evidence before me demonstrates that no more than 10% of properties within a 100m radius of

¹ Oakmans Estate Agents, 9 August 2023

the appeal site would be in use as HMO's or as supported living accommodation.

9. I therefore conclude that the proposal would not result in the unacceptable loss of a family dwelling and consequently it would be compliant with BDP Policies TP30 and TP35, DMB Policy DM11, the SPD and the Framework, which seek, amongst other matters, a sufficient supply of homes to meet the needs of different groups in the community.

Other Matters

10. The Council has referenced an appeal decision² which has similarities with this appeal scheme. The appeal decision references Policies TP30 and TP35 of the BDP as being relevant to proposals involving the change of use to a HMO. What is also evident though in the referenced appeal is that this case turned on its own particular circumstances and notably, there was an absence of any marketing to demonstrate the lack of demand for the current use. This differs from this appeal case before me, which I can confirm has been determined on its own merits.

Conditions

11. I have considered the suggested conditions, having regard to the six tests set out in the Framework. I shall impose a condition specifying the approved plans in the interests of certainty and a condition requiring the provision of cycle parking to promote a sustainable mode of travel.

Conclusion

12. The proposed development would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR

² Appeal Ref: APP/P4605/W/23/3319707