



Appeal Decision

Site visit made on 4 June 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/D4635/W/24/3339584

453 Birmingham New Road, Wolverhampton WV14 9PJ

- 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 Mr Dabinder Sikham against the decision of City of Wolverhampton Council.
 - The application Ref is 23/01111/FUL.
 - The development proposed is C3 Dwelling change of use to C4.
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Decision

1. The appeal is allowed and planning permission is granted for C3 Dwelling change of use to C4 at 453 Birmingham New Road, Wolverhampton WV14 9PJ in accordance with the terms of the application, Ref 23/01111/FUL, subject to the conditions set out in the attached schedule to this decision.

Preliminary Matters

2. The Council's fourth reason for refusal raises concerns about the accuracy of the submitted plans and land ownership matters, and there is disagreement between the parties about whether external access from the front of the property to the rear is possible or not.
3. I observed at the time of the site visit that the appeal property was built up close to each side boundary and that external access to the rear garden from the front of the property was not possible. I also saw that the building was vacant, and renovation works to the building were being carried out, including the conversion of the garage. Notwithstanding these works, it was apparent that the property was a three-bedroomed family home. I have dealt with the appeal on that basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of neighbouring occupiers; and
 - whether or not the accommodation provides satisfactory living conditions for future occupiers;

Reasons

Character and appearance

5. The appeal property is a two-storey, detached dwelling located on a busy road in an urban area. There is a large off-road parking area to the front and a spacious garden at the rear. The neighbouring properties that front Birmingham New Road are primarily semi-detached dwellings, set back from the road by frontage gardens and parking areas. They are well maintained and appeared to be occupied as family homes.
6. The proposed development would change the use of the premises from a residential dwelling to a six-bedroom house in multiple occupation (HMO). My attention has been drawn to an Article 4 Direction (Article 4), which covers the area and removes permitted development rights for the change of use from a C3 residential dwelling to a C4 HMO use.
7. The Article 4 does not impose an outright ban on the change of use from Class C3 to Class C4; it provides an opportunity to consider any such change on its planning merits. To assist, the Council's 'House in Multiple Occupation (HMO) Planning Guidance' (the HMO guidance), sets out criteria for assessing planning applications, which includes, amongst other things, the impact on the character of the area, taking account of the character of the existing use compared to the character of the proposed use, and the creation of safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
8. Interested parties have provided headline data which suggests a link between increased crime and HMO proliferation in Wolverhampton. The Designing Out Crime Officer from West Midlands Police does not support the proposal and concerns are raised about anti-social behaviour and criminal activity associated with proximity to HMOs. The police also highlight that the site is located within an 'IMPACT' area, where analysis has shown there is a disproportionate amount of crime and deprivation. Therefore, the Police suggests that the proposal would need to be designed and managed appropriately.
9. While I acknowledge the concerns of local residents, I have not been provided with substantiated evidence that the proposal would lead to an unacceptably high concentration or proliferation of HMO's here. Furthermore, although the opinion of the police attracts considerable weight, there is no compelling evidence before me that a single additional HMO with six residents would in itself bring tangible additional crime or anti-social behaviour to this area. The police have made a number of sensible recommendations to ensure suitable security and management measures. These could be secured by a condition, to help deter incidents of crime and anti-social behaviour at the property and within the area. This would further minimise the prospect of problems arising in this case. I am mindful that these types of management measures have been utilised successfully by the appellant in other places.
10. The lack of external access from the front of the property to the rear garden means that the development proposes bin storage provision at the front of the building. This would be the case whether the appeal property remained as a family house.

11. Many of the neighbouring properties within the locality also store their waste and recycling bins within their front gardens. The properties are set back significantly from the road behind boundary walls, fences, and garden hedges. For these reasons, waste bins do not dominate the street scene.
12. Likewise, the appeal property is also set back significantly from the road and whilst the front boundary is open and the proposed bin storage area would be visible, it would be located a reasonable distance from the road and viewed within the context of the property. Therefore, the appearance of waste bins on the front of the property would not be visually harmful.
13. Consequently, for the reasons given, I conclude on this main issue that the proposal would not have an unacceptable impact on the character and appearance of the area. Therefore, it would not conflict with Policies D4, D8, D9, D10 and H6 of the Wolverhampton Unitary Development Plan (UDP), Policies ENV3, CSP4 and HOU2 of the Black Country Core Strategy (BCCS), and the HMO guidance, which together, amongst other things, seek to protect the character of an area, prevent crime, reduce the fear of crime and promote community safety.

Living conditions of neighbouring properties

14. The appeal property is a detached family home, set within a linear built form along the road and a reasonable degree of daily activity can be expected from the existing property.
15. It is the case that the occupants of an HMO would live independently of one another, which is different to a family house. However, whilst I acknowledge that the day to day activities of six unrelated individuals would be different to those of a family household, I am not persuaded on the evidence before me that the degree of activity, noise, and disturbance from the occupiers, their visitors and deliveries, would be significantly different.
16. Additionally, the property is located on a busy road. As a result, any additional comings and goings would not be easily discernible in this context. Therefore, I am satisfied that the density of the arrangement of the property would not be unacceptably harmful to neighbouring living conditions with regard to noise and disturbance. This is on the basis that a condition which restricts the occupation of the building to no more than six people is imposed to limit the potential number of occupants at the property.
17. For the above reasons, I conclude on this main issue that the proposal would not cause unacceptable harm to the living conditions of the occupiers of nearby properties. Therefore, it would not conflict with Policies EP5 and H6 of the UDP and Policies CSP4 and HOU2 of the BCCS, which together, amongst other things, require development to be compatible with adjacent uses and avoid noise pollution.

Living conditions of future occupiers

18. The proposal seeks to provide six bedrooms, three on the ground floor and three on the first floor. Four of the bedrooms would have en-suite shower rooms. The two other rooms would share the main bathroom at first floor.
19. The appellant suggests that the proposals surpass the standard limitation for the provision of bathrooms set out in the Housing Act 2004. Therefore, despite

the concerns of the Council, and the Housing Standards Officer, the evidence suggests that the requirements are met. The proposed bathroom provision would therefore be acceptable for six occupants.

20. Despite concerns from interested parties about the size of rooms and the proposed accommodation to be used as an HMO for six people, the Council, and the Housing Standards Officer, do not highlight this as a concern. The internal layout provides a communal kitchen / diner at ground floor, with access to a large rear garden, for the future occupiers. Without any substantiated evidence to the contrary, I have no reason to disagree.
21. The location of the cycle store in the rear garden means that future occupiers would need to take bicycles through the house due to the lack of external access to the rear garden from the front. However, this would be the case whether the appeal property remained as a family house and the implications would not be significantly different.
22. For the above reasons, and on the evidence before me, I conclude that the accommodation provides satisfactory living conditions for future occupiers. As such, the development does not conflict with Policy H6 of the UDP and Policies CSP4 and HOU2 of the BCCS, which together and amongst other things, seek to ensure a high standard of design for all housing developments, which create satisfactory living accommodation.

Other Matters

23. I am mindful that interested parties have objected to the proposal, citing additional concerns relating to highway safety and parking due to the presence of bollards and an increase in traffic. These factors are not in dispute between the main parties. Additionally, the expert Highways Authority (HA) have not raised objections, but they do recommend a number of conditions. No substantiated evidence has been submitted that leads me to any different view. I noted at my visit that the road has a clear place function, with numerous driveways akin to that at the appeal site. Road users would therefore be aware of the prospect of vehicles accessing or leaving the site. Given my findings above, and the suggested conditions by the Council, I have found no justification to dismiss the appeal.
24. Matters relating to health and safety and fire safety would be dealt with under different legislation and there is nothing before me to indicate that the development could not comply with building regulations and any other guidance. Likewise, the concerns regarding a higher demand for utilities fall outside the scope of this appeal.

Conditions

25. The Council has suggested conditions, some of which I have amended for the sake of clarity and precision. I have also had regard to the Framework and the Planning Practice Guidance. In addition to the conditions set out in the main issues, and the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty.
26. I have imposed a condition that secures the cycle storage area at the rear of the property for six bicycle spaces. This is to ensure that provision is made to encourage the use of sustainable modes of travel. I have required this to be

provided prior to the occupation of the building. A condition requiring the bin storage arrangements within the site prior to the occupation of the building is also necessary to ensure that suitable refuse and recycling arrangements are available to future residents.

27. I have not imposed the condition suggested by the HA for the submission and approval of a Construction Management Plan because the existing driveway would provide off road parking for construction vehicles necessary to convert the property. Therefore, I am satisfied that the suggested condition is not reasonable or necessary in this context.

Conclusion

28. The proposed development would accord with the development plan, and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

INSPECTOR

Schedule of 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, numbered; 70065 - 05 - 01; 70065 - 05 - 04 Rev A; 70065 - 05 - 05; 70065 - 05 - 06 Rev A; 70065 - 05 - 08 and 70065 - 05 - 09.
- 3) The development hereby permitted shall not be occupied until the approved bicycle storage area for six cycles, as shown on plan number 70065 - 05 - 09 is provided on the site. Thereafter it shall be retained and made available for the lifetime of the development.
- 4) The development hereby permitted shall not be occupied until the approved bin storage area, as shown on plan number 70065 - 05 - 08 is provided on the site. Thereafter it shall be retained and made available for the lifetime of the development.
- 5) Prior to the first occupation of the development hereby permitted, details of security measures (including CCTV, controlled access to the building and external lighting) shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 6) The development hereby permitted shall not be occupied by more than six persons at any one time.