



Appeal Decision

Site visit made on 18 June 2024

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal Ref: APP/P4605/W/24/3339182
32 Strensham Road, Birmingham B12 9RR

- 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 Shajait Mahmood against the decision of Birmingham City Council.
 - The application Ref 2023/04752/PA, dated 12 July 2023, was refused by notice dated 15 September 2023.
 - The development proposed is change of use from 6-bed HMO (Use Class C4) to 7-bed HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would provide adequate living conditions for existing and future occupants, with particular regard to internal and external communal living space.

Reasons

3. The appeal relates to a mid-terrace property that fronts onto the eastern side of Strensham Road, with a rear garden area that backs onto the western side of Edgbaston Road. The property is currently used as a 6-bed house in multiple occupancy (HMO). The ground floor includes separate kitchen, dining, and lounge rooms, all of which are for communal use. The change of use of the property to a 7-bed HMO proposes to use the existing lounge room as an additional bedroom, with the existing dining room being used as a combined dining/living area.
4. Policy DM11 of the Development Management in Birmingham Development Plan Document 2021 (the DPD) requires HMOs to provide high quality accommodation with adequate living space, including communal living space comprising lounge, kitchen, and dining space, either as distinct rooms or in an open plan format. Policy DM11 does not specify numerical guidelines for internal communal space.
5. Whilst acknowledging the guidance is no longer used by the Council, the appellant's statement refers to the standards for internal space within the Council's former 'Property and Management Standards Applicable to Privately Rented Properties, including HMOs' (PMSA) document.

6. The PMSA states that for 7 persons, as a general guide, a minimum floor area of 7.5 sq m should be provided for communal kitchens, with a minimum floor area of 14 sq m to be provided for combined living and dining rooms. The floor plans indicate that both the existing kitchen and dining room have floor areas of approximately 14 sq m. Whilst the proposals would, therefore, meet the minimum quantitative area requirements of the PMSA, a qualitative assessment is required to determine whether high quality accommodation would be provided.
7. The proposed ground floor layout would require occupiers to pass through the combined dining/living room to access both the kitchen and 2 bathrooms. The regular passage of occupiers through the dining/living room would result in frequent disturbance to those relaxing and/or eating in the dining/living area. Inevitably, the potential layouts and usable area of the dining/living room would therefore be constrained. As such, the proposed floor plan would not be conducive to occupiers sitting and eating a meal and other social activities, such as watching television, occurring at the same time. Consequently, the proposal would give rise to a poor quality and cramped living environment. In contrast, the existing lounge has a single door and therefore provides a distinct space for social activities, undisturbed and unconstrained by the frequent passage of occupiers to other rooms.
8. Whilst I note the appellant's suggestion that the basement could provide some additional communal living space, I have not been provided with any substantive details of the size or potential layouts of the basement. On my site visit, I noted the basement currently provides poor outlook and access to natural light. I am not persuaded, therefore, that the basement would provide additional high-quality communal living space. Furthermore, I am not persuaded that compliance with, or exceeding, bedroom size standards would ameliorate the harm to living standards and social cohesion that would result from inadequate internal communal areas. The Council's 'Houses in Multiple Occupation Supplementary Planning Document 2022' (the SPD) pertinently advises that insufficient communal areas increase the time occupants must spend in their individual bedrooms and can therefore hinder social cohesion within the property.
9. City Note LW-13 of the Birmingham Design Guide 2022 (the BDG) requires, as a minimum, the provision of 10 sq m of private outdoor amenity space per resident. The SPD advises that the external area should be of sufficient size to accommodate waste storage requirements, make adequate provision for cycle parking, provide space for outdoor clothes drying and amenity space for residents. The appellant advises that the rear garden area measures 66 sq m and the front yard measures 10 sq m. The front yard area is adjacent to the street and is clearly overlooked by those travelling along Strensham Road. As such, the front yard is not private outdoor amenity space. Furthermore, the front yard primarily provides an access path to the building, leaving a small area that can realistically only be used for landscaping.
10. Whilst the rear yard does provide an area of usable space, it does not meet the minimum area requirement set out in BDG City Note LW-13. Consequently, the potential uses of the outdoor area would be harmfully constrained. It would not, therefore, provide high quality private outdoor amenity space commensurate with the requirements of future occupiers of the site.

11. Overall, the development would fail to provide adequate living conditions for existing and future occupiers with regards to both internal and external communal space. As such, it conflicts with Policy PG3 of the Birmingham Development Plan 2031 and DPD Policies DM2 and DM11. Taken together, these policies require, amongst other things, proposals to demonstrate high design quality, including providing high quality accommodation with adequate living space. It would also conflict with the requirements of the BDG and SPD, including the requirement for appropriately sized, proportioned and equipped communal areas. Furthermore, it would fail to accord with the National Planning Policy Framework requirement that development ensures a high standard of amenity for existing and future users.

Conclusion

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. The proposal would conflict with the development plan when read as a whole and there are no other considerations that outweigh that identified conflict.
13. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR