



Appeal Decision

Site visit made on 24 September 2024

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2024

Appeal Ref: APP/P4605/W/24/3343623

123 Bowyer Road, Birmingham B8 1EY

- 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 Belal Said against the decision of Birmingham City Council.
 - The application Ref is 2023/04208/PA.
 - The development proposed is described as 'Change of Use from C3 dwellinghouse to a Sui Generis House in Multiple Occupation (HMO). Currently, there are 5 bedrooms, 2 reception rooms and 1 dining room. We propose to use 1 of the reception rooms as a bedroom- bringing the total to 6 bedrooms).'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has requested that a scheme that differs from the original application is considered in this appeal. The original proposed floor plan shows bedroom 3 with a toilet adjacent. The revised scheme shows this bedroom with the toilet removed. While this may appear a small amendment, given the nature of this change of use this could have a substantial impact on the living conditions of future occupants; the revised scheme would be substantially different in this regard.
3. Considering this fundamentally different scheme in this appeal would deprive interested parties an opportunity to be consulted and to comment on this amendment and this would be unfair. For this reason, this decision is limited to the plans submitted with the original application.

Main Issues

4. The main issues are:
 - Whether the proposal would provide satisfactory living conditions for future occupants, having regard for internal space; and
 - Whether the principle of the change of use would be acceptable having regard for relevant development plan policies.

Reasons

Living Conditions

5. Policy DM11 of the Development Management in Birmingham Development Plan Document 2021 (DPD) state that proposals for the conversion of existing

dwellinghouses to be used as Houses in Multiple Occupation (HMO) will be permitted where, amongst other matters, they provide high quality accommodation with adequate living space including, bedrooms of at least 7.5 sq. m.(single). The Proposed Floor Plan shows bedroom 3 would be 7sqm and in this regard the proposal would fall short of the minimum requirements set out in this Policy.

6. The bedroom would be a regular shape, with a reasonable source of light and outlook. However, when a single bed is in place, there would be very limited space for additional furniture. Moreover, if there were additional items, the bedroom would feel cramped and future occupants would find it difficult to move around. The bedroom would not provide high quality accommodation in this regard.
7. It is asserted that the proposal would have an acceptable level of communal space. It is also highlighted that the difference in size of the proposed bedroom from that required in Policy is only 0.5 sqm, and that this bedroom would have an En Suite. However, while there would be a toilet next to bedroom 3, with a separate access off the landing, this toilet would not appear to be for exclusive use for future occupants of this small bedroom.
8. In any event, the supporting text of Policy DM11 clarifies why the Council has adopted this approach and how this Policy should be applied. With regards bedroom sizes the supporting text reiterates these will be expected to meet the internal space standards set out in the policy. The Policy and its supporting text is unequivocal on this particular matter.
9. HMO accommodation can address the needs of young people and those with low incomes. However, similar to any other sector of the community, these individuals should expect a reasonable quality of accommodation that satisfy the minimum space standards adopted in the area.
10. The appellant asserts that the proposal is acceptable in terms of HMO licencing. However, that regime is separate to the planning system. My findings are not altered on this issue accordingly.
11. In light of the above, I find that the proposal would not provide satisfactory living conditions for future occupants, having regard for internal space. In respect of this issue, the proposal would conflict with Policy DM11 of the DPD and Policy PG3 of the Birmingham Development Plan 2017 (BDP) which seek, amongst other matters, high quality accommodation.
12. The proposal in this regard would fail to accord with the advice set out in Houses in Multiple Occupation Supplementary Planning Document (SPD), the Birmingham Design Guide and Nationally Described Space Standards. The proposal would also be inconsistent with provisions of the National Planning Policy Framework (the Framework) which require a high standard of amenity for existing and future users.

Principle

13. Policy DM11 of the DPD requires amongst other matters that proposals for HMOs would not result in this type of accommodation forming over 10% of the residential properties within 100 metres of the application site and would not result in a family dwellinghouse being sandwiched between two HMOs or lead

to a continuous frontage of three or more HMOs. The proposal would satisfy these particular criteria of the Policy.

14. A further requirement of Policy DM11 is that the proposal would not result in the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies. I am also directed to a number of other Policies, including Policy TP35 of the BDP. This Policy states that the best use will be made of the existing dwelling stock.
15. Policy TP35 seeks to prevent the loss to other uses (through conversion or redevelopment) of housing, which is in good condition, stating such loss will only be permitted if there are good planning justifications or an identified social need for the proposed use.
16. Policy TP30 of the BDP guides the type, size and density of new housing, and supports the creation of mixed, balanced neighbourhoods. This aim is also reflected in Policy TP27 which seeks a wide choice of housing to cater for all incomes and ages.
17. The supporting text of Policy DM11 of the DPD, consistent with Policies TP27, TP30 and TP35 of the BDP, states the importance of ensuring the right mix of housing types in an area. HMOs provide an important contribution to people's housing choice, and as acknowledged in the SPD, they can meet the needs of those on low incomes, young professionals, students and the growing number of one person households.
18. However, the supporting text of Policy DM11 also recognises that the highest net change in the number of homes needed is for 3 and 4 or more bedroom homes, and states where there are particular shortages of large family accommodation, the Council will be sensitive to any need when considering proposals for HMOs which would result in the loss of such housing.
19. The Birmingham City Council's Housing Strategy highlights the need for more accommodation options for large families. The Housing Strategy also notes the growth of HMO accommodation has led to a significant loss in privately rented family homes. Moreover, the Housing and Economic Development Needs Assessment (HEDNA) concludes that the City's housing needs are not currently being met, particularly in relation to 3 and 4+bed family properties. HEDNA completions from 2011 till 2021 show that most of the new housing delivered has been in the form of 1 and 2-bed properties.
20. While the age structure in Birmingham is found to be younger than the wider West Midlands Region, there is also evidence that the proportion of households with dependent children in Birmingham is higher than regional and national figures. The evidence also indicates there is a continued demand for 3+ bedroom homes for families. The need for this type of housing is also referenced in the HMO SPD.
21. The appeal property is an existing dwelling, with at least four bedrooms, that appears well maintained. Under this scheme, this dwelling would be changed to accommodate six individuals living independently. While there is support for such low cost residential accommodation in Policy DM11, this support is qualified, and proposals need to satisfy stated criteria.
22. With regard that criteria, as outlined above there is evidence that new housing development may not be delivering the type of dwellings to address the needs

of families in Birmingham. The existing dwelling helps address that need in small part. While this is just one property, in light of the identified need and factors outlined above, it seems to me in its current form, the existing dwelling makes an important contribution to the Council's other strategies, objectives and policies.

23. This proposal would result in the loss of this single family dwelling, which is currently in good condition, from the existing stock. While this would be altered to another type of residential accommodation, even if I accept that type is needed in this area, I have found that the accommodation would be unsatisfactory with regards living conditions. The proposal would not be a good use of this existing dwelling stock in this respect, nor would it particularly serve a social need in this regard. I have not been persuaded by the submitted information that there is a good planning justification for the change of use in this case.
24. The appellant contends that this proposal would be a more efficient use of the land than currently. However, this existing, extended mid terraced dwelling already helps meet an identified need in Birmingham for good sized family homes. The land is not under-utilised in this regard.
25. Consequently, I find that the principle of the proposed change of use would not be acceptable having regard for relevant development plan policies. In this respect the proposal would fail to accord with Policies TP30 and TP35 of the BDP and Policy DM11 of the DPD.
26. In respect of this issue, the proposal would also not accord with the advice set out in the SPD or provisions of the Framework for the effective use of land.

Other Matters and Conclusion

27. The Council has not raised concerns about impacts on character of the area, highways safety or on neighbours living conditions. However, even if I agree with this, this should be an expectation of all development such that these are neutral factors.
28. The appeal property is well related to public transport and local services. There would also be space at the property for the safe storage of cycles and this could be secured by condition. These matters weigh in favour of the proposal.
29. The proposal would increase the residential units at the property. However, as this is an existing dwelling, the net increase would be small, and in turn the contribution to the supply of housing would be very limited.
30. The change of use could contribute to affordable residential accommodation, but this is a small benefit given the scale of the development. Moreover, the accommodation would provide unsatisfactory living conditions and would result in the loss of a dwelling type needed in Birmingham. The appellant is willing to accept conditions. However, I find no conditions before me that would make this development acceptable and that would satisfy the tests in the Framework. These factors considerably counter any small benefit identified in this case.

31. The appellant asserts that the property could still be used as a single family dwelling. However, I find no certainty that this would be so. In any event this would not justify allowing a proposal which would result in unsatisfactory living conditions.
32. My attention has been drawn to national and local policies that are not in dispute. I have found conflict with local plan policies in respect of living conditions and the principle of the change of use at this location, and the development plan when read as a whole. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR