



Appeal Decision

Site visit made on 7 May 2025

by **Hannah Guest BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025.

Appeal Ref: APP/P4605/W/25/3359535

155 Prince of Wales Lane, Birmingham B14 4LR

- 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 Junaid Raza against the decision of Birmingham City Council.
 - The application Ref is 2024/07226/PA.
 - The development proposed is change of use from C4 HMO to 8-bed HMO (Sui-Generis).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from small HMO (Use Class C4) to 8-bed HMO (Sui-Generis) at 155 Prince of Wales Lane, Birmingham B14 4LR in accordance with the terms of the application, Ref 2024/07226/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: 2024/178 PL01.
 - 3) At no time shall the total number of occupants of the building known as 155 Prince of Wales Lane, Birmingham, B14 4LR exceed 8 persons.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate decision.

Main Issues

3. The main issues in this appeal are the effect of the proposal on the character of the appeal property and immediate area, and the living conditions of future and existing occupants of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Character

4. The appeal property is located within a row of 12 terraced properties. 8 of the properties comprise commercial units at ground floor level with residential units above. The remaining 4 properties are wholly residential. I understand that 3 of the 4 residential properties are in use as a House of Multiple Occupation (HMO). These

include the appeal property, its neighbour, No. 157 Prince of Wales Lane and No. 149 Prince of Wales Lane.

5. Despite being largely residential, the section of Prince of Wales Lane where the appeal property is located, is quite vibrant. At the time of my visit, there were frequent vehicle movements, as well as some pedestrian movements. In addition to the noise of the vehicles passing, the background noise included the closing of car doors, as well as conversation between residents, pedestrians and customers of the businesses in the ground floor commercial units.
6. There was less vehicle noise within the rear garden spaces. However, there was still the noise of conversation between residents, and, during my visit, I could also hear the sound of machinery, albeit it was unclear where this noise was arising from. These noises are not untypical of a residential area and were not at a level where they would result in any appreciable disturbance or harm to the living conditions of nearby residents.
7. Overall, although there are moments of tranquillity, especially when the background noise drops during a gap in the passing traffic, the area has an appreciable degree of vitality. I recognise that my visit was at a point in time. Nonetheless, many of the commercial units were advertised to stay open until late afternoon/early evening and a couple of the businesses were due to open for the evening until late. Therefore, the degree of vitality would likely be maintained until late evening, and given the nature of the businesses, for example a fish bar, the vitality of the area may even increase later in the day.
8. The appeal property was previously granted a Lawful Development Certificate for use as a 4-bedroom HMO. This use falls under Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (Use Classes Order). Class C4 relates to HMOs comprising small, shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.
9. Since the Lawful Development Certificate was granted, the appeal property has been extended and the number of bedrooms has increased from 4 to 6, allowing 6 unrelated individuals to occupy the HMO. The appeal proposal seeks to further increase the number of bedrooms to 8, allowing for 8 unrelated individuals to occupy the HMO.
10. The Council contends that an Article 4 Direction that applies to the City of Birmingham, including the appeal site, restricts any increase in the number of occupants within a Class C4 use. Therefore, it considers that planning permission was required to increase the number of bedrooms and subsequently the number of occupants within the appeal property from 4 to 6. Nevertheless, there is no substantive evidence before me to demonstrate this.
11. I have been provided with a copy of an Article 4 Direction that applies to the City of Birmingham, including the appeal site. It states any development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Use Classes Order to a use falling within Class C4 (houses in multiple occupation) should not be carried out unless planning permission is granted under Part III of the Town and Country planning Act 1990 (as amended). There is nothing within the Article 4 Direction that restricts a building that is already in C4 use from increasing the number of bedrooms within it, as long as the use continues to

comply with the definition of Use Class C4, that is it continues to be occupied by between three and six unrelated individuals.

12. While the proposal would result in a 25% increase in the number of occupants residing at the appeal property, the introduction of 2 further bedrooms, and subsequently 2 additional occupants is a reasonably modest increase overall and would have a limited impact on the character of the area. During my visit, there was very little noise arising from the appeal property, or the other nearby HMOs at Nos. 157 and 149 Prince of Wales Lane. I observed some occupants of 155 and 157 Prince of Wales Lane enter and leave these properties. Their comings and goings had very little effect on the character of the area. To the contrary, if anything they made a positive contribution to its vitality. Given this, even if I were to assess the proposal as resulting in a 50% increase in bedrooms and occupants, that is changing the appeal property from a 4-bed HMO to an 8-bed HMO, the level of noise arising from the additional occupants would not be to a degree that it would result in any harm to the character of the appeal property or the immediate area. In coming to this view, I have taken into account the potential cumulative effect of having the three HMO uses in proximity to one another.
13. Accordingly, the proposal would comply with Policy PG3 of the Birmingham Development Plan (2017), which seeks to ensure that all new development reinforces or creates a positive sense of place and local distinctiveness, with design that responds to site conditions and the local area context. It would also comply with Policy DM11 of the Development Management in Birmingham Development Plan Document (2021) (DPD), which seeks to ensure that proposals for the intensification or expansion of an existing HMO would, among other things, not give rise to unacceptable adverse cumulative impacts on character.

Living conditions

14. I recognise that the rooms in HMOs are typically occupied independently, therefore the use of the appeal property as an HMO is different to the family housing within the immediate area. Unrelated adults are more likely to have individual daily schedules, deliveries and visitors and are less likely to undertake activities together than a family. Given this, there would be increased comings and goings, albeit, given the proposal would allow for only 2 additional occupants, this increase would be modest.
15. In this case, while the amount of communal space serving the occupants meets the HMO Property and Management Standards, it has been reduced as part of the conversion of the appeal property from a 4-bed HMO to a 6-bed HMO and would not be increased as part of the proposal. This may mean the occupants would choose to spend more time in the rear garden or in their bedrooms.
16. Nonetheless, given the nearby commercial uses and associated vitality of the immediate area, a modest increase in comings and goings and noise levels as a result of the proposal would be unlikely to affect the overall level of noise and disturbance in the immediate area to any appreciable degree. As such, it would not create an excessive disturbance to future occupants and existing neighbours.
17. I appreciate that there is a first-floor residential unit next door to the appeal property at No. 153 Prince of Wales Lane, and that it is likely that the occupants of this unit would be subjected to any increase in noise and disturbance arising from the proposal more than other nearby residents. However, this unit is also located above

a fish bar that opens late into the evening. The occupants of this unit would therefore already experience a degree of noise and disturbance from the operation of the fish bar and associated comings and goings.

18. From the evidence before me and my observations on site, it is unlikely that the proposal, alone or cumulatively with the other nearby HMOs, would add significantly to the existing noise levels and disturbance, such that it would result in harm to the living conditions of these occupants or any other nearby residents.
19. As with the above, even if I were to assess the proposal as resulting in a 50% increase in bedrooms and potential occupants, the difference in the level of noise and disturbance arising from appeal property would still not be to a degree that it would create an excessive disturbance that would harm the living conditions of existing and future residents.
20. Accordingly, the proposal would comply with Policies DM2, DM6 and DM11 of the DPD. These seek to ensure development, including HMOs, does not result in unacceptable adverse impacts on the amenity of occupiers and neighbours, with, among other things, regards to noise.

Conditions

21. The Council has suggested that, in the event the appeal was allowed, 3 conditions be imposed on any grant of permission. In imposing conditions, I have had regard to the approach in the National Planning Policy Framework and the Planning Practice Guidance. I have accordingly modified the wording or form of certain conditions without altering their fundamental aims.
22. In addition to the statutory time limit condition, a condition specifying the plans that are approved and that the development shall be undertaken in accordance with them is required in the interests of certainty.
23. To protect the living conditions of existing and future occupants and occupants of neighbouring properties, a condition is necessary to limit the total number of occupants to 8 persons.

Conclusion

24. For the reasons above, I have found that the proposal would accord with the development plan, read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore allowed, subject to the conditions set out above.

Hannah Guest

INSPECTOR