



Appeal Decision

Site visit made on 27 May 2025

by **D Cleary MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

Appeal Ref: APP/P4605/W/25/3360573

79 Bloomsbury Walk, Birmingham B7 5DQ

- 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 Ms Harjot Bhullar against the decision of Birmingham City Council.
 - The application Ref is 2024/01805/PA.
 - The development proposed is the change of use from dwelling house (Use Class C3) to small HMO (Use Class C4).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a dwelling house (Use Class C3) to a small HMO (Use Class C4) at 79 Bloomsbury Walk, Birmingham B7 5DQ in accordance with the terms of the application, Ref 2024/01805/PA, and subject to the following conditions:
 - 1) The development hereby permitted shall be completed and retained in accordance with the following approved plans referenced:
 - SO-1 – Ordnance Survey Map
 - SO-2 – Existing Floor Plans
 - SO-3 – Proposed Floor Plans
 - 2) Occupancy of the HMO hereby approved shall be limited to a maximum of three persons at any one time.

Preliminary Matters

2. In the banner above, and in my formal decision, I have used the description of development as detailed on the decision notice of the Council, rather than that which is detailed in the application form. This is because it more accurately describes the proposal, albeit I have removed some wording which is not an act of development.
3. On my site visit I observed that the development had taken place and was complete. Therefore, permission is sought retrospectively. I am satisfied that the submitted plans reflect the development which has taken place and I have determined the appeal on this basis.

Main Issues

4. The main issues are:

- i) the effect of the development on existing housing stock; and,
- ii) the effect of the development on the living conditions of the occupants of nearby residential properties, with particular regard to noise and disturbance.

Reasons

Effect on Housing Stock

5. This appeal relates to the change of use of a ground floor flat to a three-bedroom, three-person House in Multiple Occupation (HMO). Policy DM11 of the Birmingham Plan 2031 Development Plan Document 2021 (the DPD) states that the conversion of existing dwellings to HMOs will be permitted where they satisfy a number of criteria. With regard to the first main issue, the Council consider that the development conflicts with DM11d) which requires that development does *“not result in the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies”*.
6. It is clear from the evidence within the Birmingham Housing and Economic Development Needs Assessment (2022) (the HEDNA), and the Houses in Multiple Occupation Supplementary Planning Document (the SPD) that there is a continued city-wide demand for family accommodation of 3+ bedrooms. It is therefore the Councils position that 3+ bedroom family accommodation should be actively retained as a strategic objective.
7. There is dispute between the parties regarding the previous layout of the premises. It is likely that the layout would have been altered in some way to facilitate the development. The submitted “existing” plans show the same internal configuration as the proposed, and I note the appellants comment that this was the internal arrangement at the time the application was submitted. The application form indicates that prior to the change of use, the premises previously had two bedrooms. The Council in their Officer Report (OR) consider that *“it is more likely that the existing flat was a 3-bedroom flat with a family bathroom”*.
8. I am more persuaded that a flat of this modest size would more than likely have been a two-bedroom property. This is on the assumption that the layout would likely have included a separate lounge area. If it was a three-bedroom flat then the level of accommodation, as a family dwelling, would have been somewhat limited. While I have insufficient information to definitively conclude on this point, I do note that the Council in their decision and OR refer to the dwelling as being a 2/3 bedroom property (my emphasis). The Council therefore accept that this may have been a 2-bedroom property. The SPD acknowledges the continued demand for 3+ bedrooms from family households. I have not been presented with the evidence to indicate that the strategic objective relates to protecting 2-bedroom dwellings from loss.
9. I also note that footnote *** to DM11 states that *“for the purposes of this policy a non-family residential use is defined as a HMO, student accommodation, residential accommodation within C1 and C2 Use and self-contained flats”* (my emphasis). While this footnote relates to other criteria of DM11 it does, nonetheless, further

weaken the suggestion that a small self-contained flat, like the appeal site, should be considered as family accommodation which ought to be protected.

10. In this particular instance, I consider that the modest dwelling did not play an important contribution towards the Council's strategic objectives. Therefore, I do not consider that there is a necessity to robustly market the dwelling.
11. With regard to other policies of the development plan, both policies PG3 and TP27 of the Birmingham Development Plan – Planning for Sustainable Growth (2017) (the BDP) are supportive of developments which create sustainable neighbourhoods. Policy TP27 identifies sustainable neighbourhoods as being characterised by accommodation which offers a wide choice of size, type and tenure to ensure the creation of balanced communities. This objective is also supported by the preamble to DM11 which highlights that the aim is to achieve the right mix of accommodation in an area to create sustainable communities. The addition of HMOs play an important role in this overall objective. This is confirmed in the SPD¹ which supplements DM11. I have not been provided with any evidence to suggest that, in this part of the city, there is a particular deficiency of larger family accommodation; an over concentration of a particular dwelling type; or any particular overwhelming need for a certain type/size of dwelling to address any existing imbalance in the mix.
12. The local area comprises a mix of flats and dwellings. The evidence presented indicates that there is not a high concentration of HMOs within close proximity to the appeal site. Therefore, in the absence of evidence to the contrary, I consider that the creation of a small HMO, in lieu of a modest self-contained flat, would add to the overall mix of accommodation in the area. The development therefore supports the strategic objectives of the Council in creating balanced communities.
13. For the above reasons, the development does not have an unacceptable effect on existing housing stock. Therefore, the development complies with Policies PG3, TP27 and TP30 of the BDP. Together, amongst other things, these support development which contributes towards the creation of sustainable neighbourhoods through the provision of a wide mix of dwelling types. The development also complies with Policy DM11 of the DPD which supports the conversion of existing dwellings to HMOs where they do not result in the loss of a use that makes an important contribution to other Council objectives, strategies and policies.

Living Conditions

14. The appeal site relates to a ground floor premises within a three-storey block of residential properties. The site is adjoined, quite intimately, by residential properties to either side and above. The premises is modest in size, and the use provides accommodation for 3 adults. While there may be some additional comings and goings and general activity associated with the use, I do not find the number of persons within the premises to be an overly intensive use for the property. The scale and nature of activity would not be substantially different from the activities associated with the previous residential use of the site. Therefore, I have no particular evidence to support the suggestion that the use causes an adverse disturbance to neighbours.

¹ Paragraph 1.2

15. In this regard, I am also particularly mindful that there are only a small number of other HMOs within close proximity to the site. As such, there are no concerns regarding the intensification of similar uses in a small area which, cumulatively, may give rise to a greater degree of noise and disturbance to neighbouring properties.
16. The Council have suggested that the premises could be used for the accommodation for up to four adults. However, this is not what has been applied for and the application documents are clear that the development is for a 3 bedroom and 3 person HMO. In any event, the number of occupants within the premises can be controlled by condition.
17. For the above reasons, the development does not have a harmful effect on the living conditions of the occupants of nearby residential properties with particular regard to noise and disturbance. Therefore, the development complies with Policies PG3, TP27 and TP30 of the BDP. Together, amongst other things, these support the delivery of sustainable neighbourhoods and a positive sense of place. The development also complies with Policies DM2 and DM11 of the DPD. These amongst other things, require that development does not result in unacceptable adverse impacts on the amenity of occupiers and neighbours.

Conditions

18. As permission is sought retrospectively it is not necessary to attach the standard commencement condition. A condition requiring the development to be retained in accordance with the approved plans is necessary for certainty and to define the permission. A condition to limit the number of occupants within the site is also necessary in the interests of the living conditions of the occupiers of neighbouring properties and also highway safety.

Conclusion

19. For the reasons given above the appeal should be allowed.

D Cleary

INSPECTOR