
Appeal Decision

Site visit made on 21 April 2025

by **S Simms BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/P4605/W/24/3357804

45 Ribblesdale Road, Birmingham B30 2YS

- 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 G Singh against the decision of Birmingham City Council.
 - The application ref. is 2024/04571/PA.
 - The development is a change of use to 8-Bed HMO (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use to 8-Bed HMO (Sui Generis) at 45 Ribblesdale Road, Birmingham, B30 2YS in accordance with the terms of the application, ref. 2024/04571/PA, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:
 - 2024/19-01 Internal Layout Plan
 - 2024/19-02 Location and Block Plan
 - 2) The property subject of the permission hereby granted shall be occupied by no more than 12 persons at any one time.
 - 3) A Flood Evacuation Management Plan (FEMP) must be submitted to the local planning authority within three months of the date of this decision. The property must not be occupied during any period after six months from the date of this decision in which an approved FEMP is not being implemented.
 - 4) Details of the covered cycle storage shown on drawing 2024/19-02 must be submitted to the local planning authority within three months of the date of this decision. The property must not be occupied during any period after six months from the date of this decision in which the approved storage is not available.

Preliminary Matters

2. Whilst it is common ground that the development has taken place and I have dealt with the appeal on that basis, I have removed the word 'retrospective' from the description of development as it does not itself describe development.
3. An objection from the Environment Agency appears not to have been considered by the Council, as it was received on the date of the decision. I invited comments on the objection from the main parties, which I have taken into account.

Main Issues

4. The main issues in this appeal are the effect of the development on:
- the character and appearance of the area and
 - the number of people exposed to flood risk.

Reasons

Character and appearance

5. The appeal property is a two-storey Victorian mid-terrace on a street otherwise comprising semi-detached houses. A gated covered alleyway leads to a large rear garden. The property was a dwellinghouse but has been extended to the rear and had dormers added to the rear and outrigger roof slopes.
6. On my site visit, I saw that other nearby properties have been extended, some more successfully than others. Wheelie bins were on both the street and some front gardens. Some were overflowing, albeit industrial action may account for this. On street parking was available, albeit my visit was in the middle of the day.
7. The Council's analysis suggests nearly 15% of properties within 100m of the site are houses in multiple occupation (HMOs). However, the appellant demonstrates that the analysis omits several non-HMO dwellings. When included, these reduce the percentage of HMOs to just under 8%.
8. A local resident argues that there are, in fact, HMOs on Cherrington Road and that the development results in more than 10% within 100m and unacceptable adverse cumulative impacts; but does not provide evidence of either. I attach only modest weight to these assertions in view of my site visit and the appellant's evidence.
9. The Council does not dispute the critique of its analysis, but points to two appeal decisions where the threshold was found to be exceeded. Neither make findings as to the basis on which the appellant critiques the Council's analysis and, as each site is unique and the uses within a 100m of it change over time, I can attach only modest weight to them as evidence of non-compliance with policy.
10. Therefore, the development does not harm the character or appearance of the area and complies with Policy DM11 of the Development Management in Birmingham Development Plan Document (DPD), which would not allow HMOs to comprise more than 10% of residential properties within a 100m radius of the application site or to give rise to unacceptable adverse cumulative impacts.
11. Similarly, I find that the development complies with Policies PG3 and TP27 of the Birmingham Development Plan, which promote a mix of housing types in inclusive and balanced neighbourhoods and with Policy DM2 of the Development Management in Birmingham DPD and the Houses in Multiple Occupation Supplementary Planning Document, which seek to avoid cumulative adverse impacts. I attach significant weight to compliance in these regards.

Flood risk

12. The Environment Agency objected to the application because it considered the Flood Risk Assessment submitted with the application inadequate.

13. The Environment Agency stated that the site was entirely within Flood Zone 3 (High Probability). Since then, it has published a new flood risk map, which shows the footprint of the dwelling within Flood Zone 1 (Low Probability). The road and most of the front and rear gardens remain within Flood Zone 3.
14. The Council considers that flood risk should be considered, and significant weight attached to the objection from the Environment Agency. Flood risk is a main issue in this appeal, but considering the updated mapping, I attach only moderate weight to the objection, subject to my comments below on safe access.
15. The appellant considers that the development should be considered acceptable as residential development within Flood Zone 1. Certainly, in terms of the issues raised by the Environment Agency, it appears less likely that ground floor levels would not be above the design flood level.
16. However, because the road outside the site remains in Flood Zone 3, I remain concerned about safe access and, as the development intensifies a residential use, this is a matter that should be managed. Consequently, I attach a condition requiring the submission and implementation of a FEMP.
17. With the FEMP in place, I consider the effect of the development on the number of people exposed to flood risk acceptable and therefore in compliance with Policy TP6 of the Birmingham Development Plan. Overall, I attach significant weight to compliance with policy in this respect.

Other Matters

18. The appellant states that a recent appeal case confirms only a 4.38-year supply of housing land within the City of Birmingham. Neither the decision, its date nor the evidence on which it was determined, is before me. The Council has submitted a December 2024 calculation demonstrating a 5.61-year supply. On balance, I find that a five-year supply exists and relevant housing policies are up to date.
19. The Council has supplied a copy of the Wider Selly Oak Supplementary Planning Document, but the site is not in the area to which it relates. Similarly, the City-wide Article 4 Direction is relevant only insofar as it demonstrates wider housing stress, as it relates to a different change of use to the subject development.
20. I have no evidence that the site is in an area of exceptional circumstances but have in any case found that the development complies with the prior requirements of Policy DM11 of the Development Management in Birmingham DPD, so the need to demonstrate exceptional circumstances does not apply.
21. The Council refers to family housing in its reason for refusal and a local resident states that there is a shortage. However, neither the Council nor the local resident provide evidence of this or the contribution family housing makes to the objectives of the Council, so I attach only modest weight to these factors.
22. A local resident states that there is no demand for HMOs and that there are issues with crime and parking at existing ones. However, the property appears occupied, and I have no evidence of crime or parking stress, or that the HMO exacerbates either. Consequently, I attach only modest weight to these factors.
23. The main parties agree that the development complies with the space standards in Policy DM11 of the Development Management in Birmingham DPD. The floor plan

shows an open plan communal lounge, kitchen and dining space. I therefore attach only modest weight to assertions to the contrary by a local resident.

Conditions

24. As well as a condition setting out approved drawings for the purposes of clarity and definition, I have modified a condition suggested by the Council to restrict occupation to no more than 12 persons. The suggested limit of eight did not reflect the standard of bedrooms, four of which could be doubly occupied.
25. This is to secure compliance with the standards in Policy DM11 of the Development Management in Birmingham DPD and to ensure a suitable standard of individual and communal living space for the occupiers, in accordance with Policy PG3 and TP27 of the Birmingham Development Plan.
26. I have modified a condition requiring cycle and motorcycle storage to be provided to require only cycle storage and reflect the fact that the development may already be occupied. This is in the interests of sustainable travel options, in accordance with Policies PG3, TP40 and TP44 of the Birmingham Development Plan.
27. As recommended by the Environment Agency, I have also attached a condition requiring the submission of a FEMP within three months and implementation within six months to comply with Policy TP6 of the adopted Birmingham Development Plan and paragraph 181 of the National Planning Policy Framework.

Conclusion

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

S Simms

INSPECTOR