The Planning Inspectorate

# Appeal Decision

Site visit made on 31 January 2017

**by John Felgate BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 February 2017**

**Appeal Ref: APP/P4605/W/16/3162467**
**Land at rear of 96 & 98 Pendragon Road, Great Barr, Birmingham B42 1RJ**

- 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 P Dubb against the decision of Birmingham City Council.
- The application Ref 2016/05766/PA, dated 6 July 2016, was refused by notice dated 18 August 2016.
- The development proposed is the erection of 3 no. two-bedroom dwellings.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues arising from the Council's refusal reasons are:
   - the effects of the proposed development on the area's character and appearance;
   - the effects on privacy at the adjoining property No. 94 Pendragon Road;
   - and any effects in terms of flood risk.

## Reasons for decision

*Character and appearance*

3. The appeal site lies in an area of back garden land between Pendragon Road, Teddington Grove and Alexander Gardens. Access into this area is via a gated grass track, which runs between the rear fences, and also serves the various garages and outbuildings within the adjoining gardens.

4. The three proposed dwellings would face onto this track, with 6 parking spaces in front of them. The space that they would occupy is narrow and confined, between the high fences on all sides. The dwellings would fill the width of the site, apart from a passageway on each side. The space at their front would be almost entirely filled, by the proposed parking and a small turning area, and by the access track itself. Consequently, the development would be unacceptably cramped in this location.

5. The development would be seen in public views from Pendragon Road, from opposite the mouth of the track, and from around the junction with Teddington Grove, and points in between. In these views, the cramped nature of the site would be apparent, contrasting unfavourably with the more open character of the surrounding area. Seen in this context, the development would appear as an intrusive and incongruous feature, at odds with its surroundings.

6. I acknowledge that the Alexander Gardens development consists of terraced houses, built at a higher density than the original semis in the area. But that development is better spaced from adjoining properties, and its access road incorporates more space in front of the dwellings, including some tree planting and soft landscaping. Based on the submitted plans, the development now proposed would not be of a similar character or quality.

7. In these respects, having regard to the aims of Policy PG3 of the Birmingham Development Plan, adopted in January 2017, the development would fail either to achieve a high standard of design, or to create a positive sense of place, or reinforce local distinctiveness, or respond to the local context. As such, I conclude that the scheme would cause unacceptable harm to the area's character and appearance.

*Privacy*

8. The rear elevation of the proposed terrace would look towards the rear garden of No 94, and in the case of proposed Unit 1, this would be at fairly close range. But given the orientation of the properties, the view would be towards the bottom end of the garden, which is reasonably well screened by trees. It would be away from the house itself, and away from the areas likely to be used more intensively. Consequently the occupiers of No 94 would not suffer unacceptable harm to their living conditions, and in this respect there would be no conflict with any relevant planning policies.

*Flood risk*

9. In its refusal reasons, the Council raised an objection on the grounds of flood risk, which was prompted by advice from the Environment Agency (EA), to the effect that the submitted flood Risk Assessment (FRA) was inadequate. Subsequently the appellant has produced a revised FRA, and the EA has withdrawn its objection. The Council has not commented further. I see no reason to disagree with the EA, and therefore I conclude that, subject to suitable conditions, the development would be capable of satisfactorily overcoming the relevant flood risk issues.

**Other matters and conclusion**

10. I have had regard to all the other matters raised, including those from neighbours of the site. I agree that due to its cramped nature and poor outlook over fences and garages, the quality of the residential environment that the site could offer for future occupiers would be unacceptably poor. I note that it is intended to surface and maintain the access track, but this would involve works outside the application site, and although the appellant claims a right of way, there is no evidence as to whether the necessary legal rights exist to implement these works; nor indeed to remove the existing locked gates and metal palisade fencing, which are not conducive to a good residential environment.

11. But in any event, I have concluded that the development would cause unacceptable harm to the area's character and appearance. This harm is not outweighed by my findings in respect of the privacy and flood risk issues. The appeal is therefore dismissed.

*John Felgate*
INSPECTOR