
Appeal Decision

Site visit made on 7 February 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 7 March 2016

Appeal Ref: APP/P4605/W/16/3158053

257 Highfield Road, Hall Green, B28 0BU

- 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 Parimal Tanna of Damson Homes against the decision of Birmingham City Council.
 - The application Ref 2016/03220/PA, dated 15 April 2016, was refused by notice dated 4 July 2016.
 - The development proposed is the demolition and replacement of No 257 and the erection of six dwellings in the rear.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. It has been brought to my attention that the Birmingham Development Plan (BDP) was adopted on the 10 January 2017. The BDP replaces the saved policies of the Birmingham Unitary Development Plan (UDP) but it does not replace policies contained within paragraphs 3.14 to 3.14D of the UDP. The BDP also modifies the pre- submission Birmingham Development Plan policies referred to in the Council's reasons for refusal. Both parties are aware of this and have had a chance to comment. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site comprises the host property, its extensive garden and the rear sections of gardens associated with 255, 259 and 261 Highfield Road. No 257 itself is a semi-detached house fronting Highfield Road and is typical of other similar properties standing in spacious plots along this road. The site is mainly lawned, but includes a number of trees, shrubs and hedges, mainly located close to or on the boundaries of each garden. Adjacent to No 255 is an access drive to St Peter's Church and the church and its parking area are adjacent to the rear portion of No 255's garden.
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5. The proposal would involve the demolition of No 257 and its replacement with a similar but slightly narrower dwelling. An access drive between No 257 and No 259 would serve 6 proposed dwellings that would be located to the rear of the dwellings on Highfield Road. Five of the dwellings to the rear would be bungalows and one would be a dormer bungalow and they would front onto the access drive. I acknowledge that the site is not within the Green Belt, an Area of Special Character or a Conservation Area.
6. The Council's adopted Mature Suburbs Supplementary Planning Document (MSSPD)¹ is particularly relevant to this appeal. This document dealing with residential intensification acknowledges the importance of the spatial composition of housing developments, in particular the need for developments to respect the typical form of plots in the area including the plot sizes, density and the building siting. This document states that proposals that undermine and harm the positive characteristics of a mature suburb will be resisted by the Council.
7. There is no dispute between the parties that this part of Hall Green is a mature suburb. The area in the vicinity of the site is characterised by mix of style and form of buildings. However, despite this variety there is a clear linear pattern of development with well-spaced dwellings set in generous plots. The majority of dwellings are set back behind front gardens and have large rear gardens. This gives the area an open and spacious character and appearance, which is further enhanced by the presence of established trees within gardens and the road verges.
8. The six dwellings to the rear of the site would be set well back from Highfield Road but they would be seen in glimpsed views along the new access drive between the frontage properties. Moreover, they would be readily visible in views from the access drive to St Peters Church and from the neighbouring properties and gardens. I acknowledge that the church building is located to the rear of existing dwellings but its design reflects its function as a place of worship and as such it does not erode the overall character of this mainly residential area.
9. The positioning of dwellings behind the frontage properties would be at odds with the predominant pattern of development in the vicinity of the appeal site, in which dwellings are arranged in a linear way and directly face the public highway. This tandem development would introduce substantial new built form and hard surface areas for access and parking into undeveloped garden space that, at present, positively contributes to the spacious feel of the area.
10. I note that the appellant considers that the proposal would meet the minimum garden sizes and separation distances within the Council's adopted Places for Living Supplementary Planning Guidance (SPG). I also note that the proposed density of the site would approximate to 28 dwellings per hectare which would be below the 40 dwellings per hectare sought by BDP Policy TP30. However, this policy does state that there may be occasions when a lower density would be appropriate in order to preserve the character of the locality for instance within a mature suburb. I appreciate that there is some variation in rear garden lengths to dwellings in the wider area.

¹ Mature Suburbs – Guidelines to Control Residential Intensification – Supplementary Planning Document – February 2008

11. However, the 6 dwellings to the rear of the site would be on significantly smaller plots and the resulting rear garden areas to those dwellings would also be significantly smaller than those associated with the majority of dwellings in the immediate vicinity. The density of the proposal would also be appreciably greater than the existing density, which the Council state equates to 14 dwellings per hectare.
12. Consequently, the proposal would result in a more closely spaced pattern of development than that, which predominates in the immediate surrounding area and in comparison with the majority of the adjacent properties would appear cramped. Furthermore, as stated above, the positioning of development in a tandem form would also be at odds with the predominant pattern of development. As such, in visual terms I consider that the development would not integrate successfully with the existing settlement and it would appear as an incongruous cluster of housing extending into the existing mature and open gardens. Consequently, the proposal would result in significant harm to the character and appearance of the area.
13. I have considered the Council's argument that the current proposal would set a precedent for similar developments. Whilst each application and appeal must be treated on its individual merits, I can appreciate the Council's concern that approval of this proposal could be used in support of such similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern. Numerous houses in the surrounding area do have similar generous gardens and developing them would significantly harm the character and appearance by reducing the spaciousness provided by the open nature of these gardens. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would exacerbate the harm which I have described above.
14. The appellant has stated that the proposal would not alter the Highfield Road street scene, the architectural style and materials of the dwellings would be sympathetic to the surrounding area and the trees and hedges on the Highfield Road frontage and the boundary and high quality landscaping to the rear would be retained. I note that the Council did not object to the scheme on these points. However, a lack of harm in these respects is a neutral consideration and does not outweigh the harm that I have identified.

Other Matters

15. The appellant has drawn my attention to other rear garden developments in the area, notably The Robins, The Holdens and The Friars. However, I do not have the full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. Moreover, I noted at my site visit that despite these examples, development in a tandem formation, in which dwellings stand directly behind others, away from the road frontage and served by a driveway between existing properties, is not a strong characteristic of this part of Hall Green. Consequently, I do not consider that these developments, whilst permitted by the Council, should justify a further erosion of the character and appearance of the area. In any case, I am required to determine the appeal on its own merits.
16. I note that the appellant states that the Council cannot demonstrate a 5 year housing land supply based on the fact that the BDP had not been formally

adopted. I have no subsequent evidence before me in relation to the 5 year housing land supply position in relation to the recently adopted BDP. As such the evidence on the 5 year housing land supply is inconclusive.

17. In terms of the three dimensions to sustainability set out in paragraph 7 of the National Planning Policy Framework (Framework), the proposal would make a modest contribution to the local economy including the provision of construction jobs, some additional local spend and New Homes Bonus and community charge receipts. I acknowledge that there would be sustainability benefits associated with the proposal. There is no dispute between the parties that the appeal site is in a sustainable location. The dwellings would have a social role by providing a mix of housing and making a small contribution to the housing supply.
18. However, I have found that the proposal would result in significant harm to the character and appearance of the area. As such it would not accord with the environmental dimension of sustainable development. Even if I were to conclude there is a shortfall in 5 year supply as suggested by the appellant and that the relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and as such the proposal would not comprise sustainable development.

Conclusion

19. Taking into account all of the above I consider that the proposal would result in an incongruous and relatively cramped form of development when compared to the existing built form of the area. As such it would significantly harm the character and appearance of the area. It follows that the proposal would conflict with BDP Policies PG3, TP27, TP28 and TP30, which together, seek amongst other things, sustainable neighbourhoods that have a strong sense of place with high design quality and development that responds to site conditions and the local area context.
20. The proposal would also conflict with the guidance of the MSSPD and the SPG, which together, seek amongst other things, for new developments to reinforce and evolve local characteristics that are considered positive so that the essential characteristics of mature suburbs are not harmed. It follows that the proposal would also conflict with paragraph 3.14C of the UDP which states that development should have regard to the SPG and any other relevant Supplementary Planning Guidance/Documents.
21. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
22. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR