
Appeal Decision

Site visit made on 31 July 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 9 August 2017

Appeal Ref: APP/P4605/W/17/3174973

25 Mickleton Avenue, Birmingham, B33 0TX

- 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 N Biddle against the decision of Birmingham City Council.
 - The application Ref: 2017/01671/PA dated 22 February 2017, was refused by notice dated 25 April 2017.
 - The development proposed is the extension of an existing terrace of houses to form one additional house adjacent to 25 Mickleton Avenue.
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Decision

1. The appeal is allowed and planning permission is granted for the extension of an existing terrace of houses to form one additional house adjacent to 25 Mickleton Avenue, Birmingham, B33 0TX in accordance with the terms of the application, Ref: 2017/01671/PA dated 22 February 2017, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. I have dealt with another appeal at this address¹. However, that appeal relates to the refusal of an application for two additional one bedroom units (flats); and although the site is the same in both cases, the two appeals are not inter-linked, and concern different schemes and issues. Therefore, the appeals will be the subject of separate decisions.
3. In January 2017 the Council adopted the *Birmingham Plan (BDP)* and this comprises part of the development plan. It replaces the saved policies of the *Birmingham Unitary Development Plan 2005 (UDP)*, with the exception of those in Chapter 8 and Policies 3.14 -3.14D referred to in the decision notice which continue to be saved. I have considered the appeal on this basis.

Main Issues

4. I consider the two main issues in this case are: Firstly, the effect of the proposed development on the character and appearance of the street scene and surrounding area; and secondly, whether adequate amenity space would be available to serve the future occupiers of the proposed dwelling.

Reasons

5. The appeal site is located within the predominantly residential area of Garratts Green and comprises part of the garden of No 25 Mickleton Avenue, a corner

¹ APP/P4605/W/17/3173162

plot at the junction of Mickleton Avenue and Hidcote Grove where the existing dwelling is well set back from both road frontages. The proposed dwelling would effectively extend the existing terrace of dwellings fronting Mickleton Avenue at the same height and depth, and follow the same regular building line. However the proposed dwelling would protrude forward of the similarly regular building line of the dwellings facing Hidcote Grove.

Character and Appearance

6. Saved paragraph 3.14D of the UDP states that particular regard will be given to the impact of a proposed development on the local character of an area, including topography, street patterns, building lines, open spaces, landscape, scale, massing, and neighbouring uses. BDP Policy TP27 encourages a strong sense of place with high design quality so that people can identify and feel pride in their neighbourhood. BDP Policy PG3 has similar aims, and states that new development will be expected to demonstrate high design quality which contributes to a strong sense of place and distinctiveness.
7. I have also been referred to the Council's *Mature Suburbs Supplementary Planning Document* (SPD). It has adopted by the Council, is referred to as being a material consideration in the UDP, and therefore attracts weight. It contains detailed guidance on determining character, the assessment of proposals, and design criteria. Section 4.12 says building plots should reflect the urban grain and what is typical in the area, and that the frontage width, height and massing should be in keeping with those in the area. It adds that established building lines should be respected, and that separation distances between buildings should generally respect those which characterise the area. The SPD also says corner plots are regularly given more space at the side to retain a degree of openness at the junction.
8. By reason of its projection forward of the building line established by the terrace on Hidcote Grove and loss of green space, the Council is concerned that the proposed dwelling would fail to respect the spacious layout around the junction, the spatial separation of the corresponding dwelling at the other end of the terrace, and would be at odds with the general pattern of development for corner plots in the surrounding area.
9. However, on balance I am satisfied that the proposed dwelling would not significantly detract from the spacious layout of this part of the estate or be at odds with the general pattern and grain of development in the area. Although the dwelling would project forward of the Hidcote Grove building line, it would nonetheless still be set back a considerable distance from the highway behind a small side garden and wide grass verge. Therefore, this variation from the established building line would not, in itself, be significantly harmful in terms of the appearance of the street scene. I am also mindful of the fact that the more modern housing on the other side of Hidcote Grove does not follow the general form and grain established by other development in the area. Its frontages are much closer to the street, and is has been built to a much higher density.
10. Whilst that part of the SPD relating to building lines would not be adhered to in respect of the proposed development, guidance in the SPD should not be applied prescriptively, and I favour a pragmatic approach in this case which responds to the particular site circumstances.

11. The Council is also concerned that the fenestration to the front and side elevations of the proposed dwelling would be at odds with the existing window pattern of other dwellings in the terrace. Whilst this is correct, and I consider that some elements of the detailed design could have been carefully thought out, I do not consider this matter to be sufficiently harmful to justify refusal of the scheme. In any event, changes over the years have reduced the original uniformity of the terraces to some extent, and this has influenced my reasoning on this matter.
12. Overall, I conclude on this issue that the proposal would represent an acceptable form of development that would not materially harm the character and appearance of the street scene and surrounding area. As such, I find no conflict with saved UDP Policy 3.14D and BDP Policies TP27 and PG3.

Living Conditions- Adequacy of Private Amenity Space

13. The proposal would result in the rear garden of No 25 being reduced in size to about 61sqm, which the Council considers to be adequate to serve the needs of the occupiers of that dwelling. The proposed dwelling would have an overall garden size of about 145sqm (front, side and rear), although only about 27sqm of this would be private amenity space (fenced off to the rear of the dwelling).
14. The Council's *Places for Living Supplementary Planning Guidance* (SPG) is relevant. It is referred to in saved UDP Policy 3.14C and therefore attracts weight. It suggests that a minimum 52sqm garden is required for a 2-bedroom house. However I can find no requirement in the SPG that the garden has to be entirely private or enclosed. It does however explain that careful design rather than a blanket application of numerical standards can often address concerns such as privacy and amenity, and should take account of the context. Therefore, given the reasonable extent of the overall garden area, I conclude on this issue that the proposal would provide acceptable living conditions for future occupiers in terms of private amenity space. As such it would comply with BDP Policies PG3 and TP27.

Other Matters

15. The potential for overlooking, loss of privacy and overshadowing has been raised by a neighbouring resident. However, the Council has raised no overriding objections to the effect of the proposal on the living conditions of neighbouring residents with regard to these concerns. Based on my site visit and interpretation of the relevant guidelines in the SPG I find no reason to disagree with the Council's assessment.

Conditions

16. I have considered the suggested conditions in the light of the advice in the Government's *Planning Practice Guidance*. In addition to the standard 3 year condition for the commencement of development a condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions to cover the approval of materials and boundary treatment are needed in the interests of the appearance of the area. Foul and surface water drainage details are required in order to prevent pollution and the increased risk of flooding. Although indicated on the approved plans, an additional condition is needed to ensure that windows fitted on the rear elevation are obscure glazed to protect the privacy of adjoining occupiers.

Conclusion

17. I have concluded that the proposal would not harm the character and appearance of the area and that adequate private amenity space would be available. Furthermore, the proposal would represent a sustainable form of development, satisfying the terms of the three strands of sustainable development set out in paragraph 7 of the Framework.
18. I have taken account of representations received from nearby residents raising issues including overdevelopment, noise disturbance, overlooking, loss of privacy, and overshadowing. Nonetheless, whilst I note these and other valid concerns, none is sufficient to alter the considerations that have led to my conclusion. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Nigel Harrison

INSPECTOR

Schedule of 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: 1609-04-Proposed Site and Floor Plans; 1609-05-Proposed Elevations; 16069-06-Proposed Site and Location Plans; 1609-07-Existing Floor Plans and Elevations; and 16069-12-Site Plan.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved in writing by the Local Planning Authority. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until a scheme for the drainage of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and thereafter maintained.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be carried out in accordance with the approved details and completed before prior to the occupation of the dwelling, or in accordance with a timetable agreed with the Local Planning Authority.
- 6) All windows and doors on the rear elevation of the dwelling hereby approved (facing towards the side elevation of No 1 Hidcote Grove) shall be fitted with obscure glazing and retained in that condition.

(End of conditions)