
Appeal Decisions

Site visit made on 10 October 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 9 November 2017

Appeal A Ref: APP/P4605/W/17/3179051

Land to the rear of 132 Hamstead Hall Road, Handsworth, Birmingham B20 1JB

- 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 & Mrs Carter against the decision of Birmingham City Council.
 - The application Ref 2016/09559/PA, dated 15 November 2016, was refused by a notice dated 17 January 2017.
 - The development proposed is the erection of two dwellings.
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Appeal B Ref: APP/P4605/W/17/3179053

Land to the rear of 132 Hamstead Hall Road, Handsworth, Birmingham B20 1JB

- 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 & Mrs Carter against the decision of Birmingham City Council.
 - The application Ref 2017/02572/PA, dated 21 March 2017, was refused by a notice dated 24 May 2017.
 - The development proposed is the erection of a single one and half storey dwelling.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matter

2. As part of the appeal submission in respect of Appeal A, the appellant has submitted amended drawing, Ref B 05, dated 27 June 2017. The Council has had an opportunity to comment on this amended drawing. It is only appropriate to take the amended drawing into account if no party would be disadvantaged. Having regard to *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JPL 37*, it is necessary for me to consider whether the proposed changes would represent a substantial difference compared to the original application. It was held in this judgement that one of the main criteria is whether the development would be so changed by such amendments that to grant planning permission would deprive those who should have been consulted of the opportunity of consultation.
3. The amended drawing shows the addition of a rooflight to serve the proposed bedroom at the rear of the property. I consider this to be a minor alteration to the original scheme and I do not consider that any party would be prejudiced

by my determining the appeal with regard to amended drawing, Ref B 05, dated 27 June 2017, and I have done so on this basis.

Main Issues

4. A main issue in both appeals is the effect on the character and appearance of the area.
5. With regard to Appeal A, there is an additional main issue of the effect of the development on the living conditions of future occupants, with particular regard to outlook and light. Furthermore, with regard to Appeal B, there is an additional main issue of the effect of the development on the living conditions of neighbouring residents at 130 Hamstead Hall Road, with particular regard to privacy.

Reasons

Character and appearance

6. 132 Hamstead Hall Road lies in a prominent location on the corner of Westover Road and adjacent to a roundabout junction with Underwood Road and Vernon Avenue. Appeal A proposes a two storey detached dwelling within 132's side garden area and adjacent to Westover Road. The scale, form and design of this new dwelling would match that of 132. It is also proposed to construct a new dwelling within the rear garden of 132, fronting onto Westover Road. In the case of Appeal A, this dwelling would be a bungalow with a simple hipped roof, whilst in the case of Appeal B; the dwelling would be a one and a half storey dwelling with first floor accommodation provided within its roof space.
7. The character of Hamstead Hall Road and indeed the surrounding area is derived in part from the properties consistent scale, form and individual design characteristics. Moreover, their general alignment along the street, plot width and deep front and rear gardens provide the area with a distinct urban grain. Although many of the houses have now been extended and appear to be sited quite close together, their deep frontages and rear gardens provide a spacious quality to the area. This spacious pattern of development is particularly evident at road junctions, where there are clear uninterrupted views along the street frontages and over the deep rear gardens of properties.
8. The Council's Supplementary Planning Document, Mature Suburbs - guidelines to control residential intensification, 2008 (SPD) recognises that Birmingham's mature suburbs and other residential areas have a distinct local character, the spacious nature and low density of which often leads to pressure for infill development and backland development which can erode local distinctiveness. The SPD makes it clear that the space between the buildings is as important as the actual buildings in influencing the character of an area. In particular, it recognises that inter-war properties are normally set back in tighter formation and on narrower plots, with reasonable distances back from the highway and deep rear gardens. Furthermore, it states that corner plots, such as the case in this appeal, are regularly given more space to the side to enable a degree of openness at the junction.
9. The proposed two-storey dwelling would be aligned with 132 retaining the building line along Hamstead Hall Road. However, the open side garden area

of No 132 contributes to the spaciousness of the roundabout junction and from which clear views along the street frontages are currently afforded. The position of this two-storey dwelling, with its flank wall so close to the pavement of Westover Road, would be in direct conflict with the established building line of the existing residential properties along Westover Road. It would interrupt the views currently afforded along the street frontage which contribute significantly to the character of the area. The proposed dwelling would be particularly prominent when travelling up Westover Road towards the roundabout junction, due to the curvature of the road and rising land. Moreover, it would introduce a dominant built form in a prominent location which would erode the spaciousness around the roundabout junction and would detract from the character and appearance of the street scene as a whole. I have taken into consideration the garage within the side garden area of the dwelling on the corner of Underwood Road; however its single storey nature ensures that it is not a visually dominant structure.

10. To accommodate the proposed dwelling in the rear garden, the existing deep garden of 132, which is a key characteristic of this residential neighbourhood, would be truncated. Furthermore, a dwelling in this location would restrict the open views currently afforded across the back gardens of properties on Hamstead Hall Road which contribute significantly to the area's spacious and verdant quality.
11. Despite the proposed bungalow in Appeal A picking up on some of the design characteristics of properties in the area, for example its hipped roof and bay windows, its single storey form, and indeed the form of the one and a half storey dwelling proposed in Appeal B, would not be reflective of the scale and two storey form of the dwellings that predominate the area. I recognise that a bungalow has been proposed to take account of the difference in land levels between the site and the neighbouring property on Westover Road, however neither the dwelling proposed in Appeal A or B would sit comfortably in this location. The small plot size, its contrived layout with no rear garden, and the form of the dwellings proposed would contrast sharply with the prevailing form and pattern of development in the area. Consequently, the proposed development would not contribute to local distinctiveness which is a clear aim of the National Planning Policy Framework¹ (the Framework)
12. I conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would conflict with the development plan, and in particular with Policies TR7 and PG3 of the Birmingham Development Plan, 2017 and adopted the Places for Living, Supplementary Planning Guidance (SPG) and Mature Suburbs SPD's, which seek to ensure, amongst other things, that new development reinforces local distinctiveness and responds to the character of an area.

Living conditions of future residents

13. The Council's second reason for refusal with regard to Appeal A, concerns the amount of light and outlook that the future occupants would be afforded in the rear bedroom of the proposed bungalow. The bedroom would have a window; however the outlook from that window would be partially obscured

¹ Paragraph 60, National Planning Policy Framework.

by the boundary fence which would be within one metre of it. Whilst I agree with the Council that the situation is not ideal, the room is a secondary bedroom where outlook is less important. Furthermore, there would be some views of the skyline above the fence, and the amended plans submitted show that additional light would be afforded by the roof light.

14. I conclude that in view of the proposed use of the room as a bedroom, and subject to the amended plan which I am satisfied could be secured by a condition, the proposed bungalow in Appeal A would provide for acceptable living conditions for future occupants, with particular regard to outlook and light. I therefore find no conflict with the development plan, and in particular with saved Paragraph 3.14D of Birmingham's Unitary Development Plan, 2005 which together with the Places for Living SPG seeks to ensure, amongst other things, that places feel pleasant. I also find no conflict with paragraph 17 of the Framework which aims to provide a good standard of amenity for all future occupiers of land and buildings.

Living conditions of 130 Hamstead Hall Road.

15. The Council's second reason for refusal with regard to Appeal B, concerns the potential for overlooking of the garden area of 130 Hamstead Hall Road from the proposed facing kitchen/diner windows on the rear elevation of the one and half storey dwelling, and the privacy issues that would result for both future occupiers and neighbouring residents.
16. The proposed kitchen/diner windows are not the only windows that would serve this room, there would also be French style windows opening out onto the proposed garden area. Consequently, the outlook and daylight that would be available to this room would not be compromised if the facing windows were fitted with obscure glass, or a 1.8m high boundary fence was to be erected along the site's common boundary with 130 which has been suggested by the appellant. I am satisfied that either of those solutions could be secured by a condition and would be suitable mitigation to overcome those privacy concerns.
17. I conclude that the proposed development would not have a harmful effect on the living conditions of the occupiers of 130 Hamstead Hall Road, with particular regard to privacy. The proposed development would not therefore conflict with one of the core principles of the Framework which seeks to provide a good standard of amenity for all existing and future residents of land and buildings.

Other Matters

18. I have taken into consideration the Framework's aim to provide a wide choice of homes and the contribution that the proposals would make to the supply of homes in the area. However, the social and economic benefits that would be accrued from two new homes would be limited, and would not significantly or demonstrably outweigh the harm that I have identified to the character and appearance of the area.
19. I have read the many letters of objection from third parties and the range of concerns they have. However, in view the harm that I have identified to the

main issue set out above, it is not necessary for me to address those third party concerns further.

Conclusions

20. Although I have found that the proposed dwellings in Appeal A and Appeal B would provide for acceptable living conditions for future occupants and would not have a harmful effect on the living conditions of the occupiers of 130 Hamstead Hall Road, I have found that the proposed dwellings in both Appeal A and Appeal B would have a harmful effect on the character and appearance of the area.
21. For the reasons given above and taking into account all other matters raised, I conclude that Appeal A and Appeal B should not succeed.

Elizabeth Pleasant

INSPECTOR