



Appeal Decision

Site visit made on 18 June 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Appeal Ref: APP/P4605/W/19/3225540

108 College Road, Birmingham B44 8DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr Edmond Fahey against the decision of Birmingham City Council.
- The application Ref 2019/0593/PA, dated 1 February 2019, sought approval of details pursuant to Conditions 4, 6 and 9 of planning permission Ref 2018/05579/PA granted on 17 September 2018.
- The application was refused by notice dated 21 March 2019.
- The development proposed is erection of one dwelling house and associated works.
- The details for which approval is sought are Conditions 4,6 and 9 which state that:
(4) No development shall take place until full details of hard and/or soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials, minor artefacts and structures, proposed and existing functional services above and below ground, fully annotated planting plans to a scale of 1:100 showing, where used, locations of individually planted trees, areas of woodland, shrubs, hedges, bulbs, and areas of grass. Within ornamental planting areas, plans should be sufficiently detailed to show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include planting schedules, noting species, plant sizes and proposed numbers/densities and details of the proposed planting implementation programme. All hard and/or soft landscape works shall be implemented in accordance with the approved details. The works shall be implemented prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority and thereafter maintained. Any trees or shrubs which, within a period of two years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.
(6) No development shall take place until full details of the proposed boundary treatment of the site have been submitted to and approved in writing by the Local Planning Authority. These details shall include plans showing the locations of existing, retained and proposed new boundary treatments and scaled drawings indicating the positions, height, design, materials, type and colour of proposed new boundary treatments. The approved scheme shall be implemented before occupation of the building(s)/use/dwelling(s) hereby permitted and shall be retained thereafter.
(9) No development shall take place until full details of the siting and design of the proposed means of access have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development hereby permitted is brought into use.
- The reasons given for the conditions are: (4) In order to secure the satisfactory development of the application site, ensure a high quality of external environment and reinforce local landscape character in accordance with Policies PG3, TP3 and TP7 of the Birmingham Development Plan 2017 and saved Paragraph 3.14 of the Birmingham UDP

2005. (6) In order to secure the satisfactory development of the application site in accordance with Policies PG3 and TP7 of the Birmingham Development Plan 2017 and the National Planning Policy Framework. (9) In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Edmond Fahey against Birmingham City Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council based their decision on the fact that no information was supplied with the application in order to assess whether the details were suitable. The Council has admitted during the appeal process that the information had been submitted to support the application, but due to an administrative error, had not been discovered until after the decision was made. Notwithstanding this, I have considered the information in this appeal.

Background and Main Issues

4. Conditional planning permission was granted for a single dwelling on the site in September 2018. An application to discharge conditions and approve details in relation to the permission was made in February 2019. As part of that decision, conditions 4,6 and 9 in relation to submission of details prior to commencement were not approved. These conditions concern details of landscaping, boundary treatments and the siting/design of the access for the site.
5. In light of the above, the main issues in this case are whether the details are acceptable in terms of the character and appearance of the area, and highway safety.

Reasons

Character and appearance

6. The plans supplied by the appellant for Condition 4 (Landscaping) show that the existing rear garden planting and lawned area would remain, and a small turfed area would be introduced to the front of the new dwelling, with the remainder hard-surfaced. Condition 6 relates to boundary treatments and the plans show the existing boundary will remain unaltered to the rear and to the boundary with No 112, whilst the boundary with No 108 will be replaced with a 2m timber post and rail fence with vertical boarding. The section forward of the front elevation will be separated from No 108 by a demarcation kerb.
7. Policy PG3 of the Birmingham Development Plan (2017) (the DP) states that, amongst other matters, development should contribute to a strong sense of place, and that private external spaces, streets and public spaces should be attractive and functional. This is further reinforced by Policies TP3 and TP7 of the DP and Saved Policy 3.14 of the Birmingham UDP (2015) (the UDP) which

state that development should incorporate measures to enhance biodiversity value and introduce green infrastructure features where possible.

8. Whilst the Council did not formally respond to the submitted detail as part of the planning application to discharge the conditions, I note the comments of the Council's Landscape Officer in seeking a suitable landscape scheme to improve the character of the area, and this is reflected by the wording of the Condition. The introduction of a small turfed area to the front with a large area of hardstanding would add limited benefit to the character and appearance of the area. At present, there are isolated pockets of planting and garden features along that stretch of properties in the immediate locality, and a correctly planned and set out landscaping scheme would lift that area and reduce the impact of the hardstanding proposed, as well as introducing positive biodiversity to the area. The use of planting to the boundary frontage would also relieve the need for demarcation kerbing or high boundary fencing, further improving the character and appearance of the area.
9. Therefore, I find the details submitted to discharge Conditions 4 and 6 would cause harm to the character and appearance of the area, and therefore would be contrary to Policies PG3, TP3 and TP7 of the DP, Saved policy 3.14 of the UDP and the design guidance set out in the National Planning Policy Framework (the Framework).

Highway Safety

10. Condition 9 seeks details of the siting and design of the access for the new development. The information submitted shows that the existing crossing would be used, with a demarcation kerb separating the new and existing dwellings.
11. The wording of the condition requests full details of the siting and design of the access. Insufficient detail has been submitted in relation to the revised layout, planting and boundary treatments, as well as the vehicular and pedestrian visibility splays or any existing drains or service channels.
12. I find that without the requisite information, It has not been demonstrated that the proposals would not cause harm to highway safety, and as such the details submitted to discharge Condition 9 would be contrary to policies PG3 and TP44 of the DP, which collectively seek the promotion of the efficient, effective and safe use of the transport network, including such local considerations as road user safety and pedestrian and cyclist needs.

Conclusion

13. For the above reasons, and having regard to all other matters raised, I dismiss this appeal.

Paul Cooper

INSPECTOR