



Appeal Decision

Site visit made on 24 June 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019

Appeal Ref: APP/P4605/W/19/3223592

**Land on the corner of Felstone Road & Howley Avenue, Birmingham
B44 9AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Ms Angela Witton against Birmingham City Council.
 - The application Ref 2018/07332/PA, is dated 5 September 2018.
 - The development proposed is the erection of 1 dwellinghouse.
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Decision

1. The appeal is dismissed and outline planning permission is refused.

Application for costs

2. An application for costs was made by Ms Angela Witton against Birmingham City Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have revised the applicant's original description of development omitting the words "Outline application for" and "with all matters reserved except access" as these do not constitute acts of development.
4. The appeal is against the Council's failure to determine an application for outline planning permission. The Council has provided a report which states that in its opinion the proposal is unacceptable, however, this is not a formal determination of the Council as the jurisdiction to determine the application transferred from the Council upon valid receipt of this appeal. However, from the evidence before me, it appears that the Council would have refused the application had it been empowered to do so.
5. The planning application was submitted in outline with all matters reserved except for access. A layout plan and elevation drawings (Drawing No ASG16033-10 Revision B) accompany the outline application and I have taken these details into account only in so far as establishing whether it would be possible, in principle, to erect a dwelling on the site.

Main Issues

6. The main issues are:

- Whether the development would provide a suitable location for housing, having regard to the character and appearance of the area
- Whether the development would provide suitable living conditions for future occupants and the occupiers of neighbouring properties, with particular regard to private amenity space, privacy and outlook.

Reasons

Character and appearance

7. The appeal site is an irregular parcel of land which occupies a corner plot location at the junction of Felstone Road with Howley Avenue. The surrounding area is characterised by a mix of post-war residential housing comprising well-spaced pairs of semis and some short terraced properties neatly laid out with good sized front and rear gardens. Large undeveloped corner plots, such as the appeal site, are a key characteristic of this suburban residential area and exist at either end of Howley Avenue and nearby on the corners of Randwick Grove. Together they provide a pleasant landscaped and spacious feel to the area which contributes positively to its overall character and appearance.
8. The indicative plans show that the proposed development would introduce a single dwelling in line with that of the neighbouring property at 71 Felstone Road with the residential plot amounting to approximately half the existing undeveloped land on the corner of Howley Avenue with Felstone Road. This would undoubtedly diminish the undeveloped and spacious characteristics of the site which, in turn, would introduce a discordant form of development that would disrupt the general pattern of development in the surrounding area. Although matters of layout, scale and appearance are reserved for subsequent consideration, given the spacious corner plot location of the proposal and the positive contribution its undeveloped character adds to the locality, I find that to develop the site for housing would significantly harm the distinct character and appearance of the area.
9. It is suggested by the appellant that the new dwelling would be designed to reflect the features of nearby dwellings and that with appropriate boundary treatments the proposal would have a minimal impact on the existing character of the street scene. I accept that the property could be designed to have an acceptable appearance that would be in keeping with that of neighbouring dwellings. However, it is the introduction of built form, and the subsequent loss of spaciousness between properties on corner locations, that would be particularly harmful to the character of the area. Indeed it is this undeveloped and spacious character which the Council's Mature Suburbs Supplementary Planning Document (SPD) seeks to protect and which the proposal is at odds with.
10. Consequently, in this regard, I have found the appeal proposal would not be a suitable location for housing as it would be harmful to the character and appearance of the area. This is contrary to Policies PG3 and TP27 of the Birmingham Development Plan 2017 and saved paragraphs 3.14 to 3.14D of the Birmingham Unitary Development Plan 2005 which together seek to

achieve high quality sustainable design that creates a positive sense of place and reinforces local distinctiveness.

Living conditions

11. Indicative plans show a small enclosed garden area to the rear and a larger area of enclosed garden to the side of the proposed dwelling. The Council are concerned that the proposed hedging to the side garden area would not be a permanent feature and could be removed, thereby reducing the private garden area available to future occupants. They are also concerned that potential alternative boundary treatments sufficient to provide adequate privacy would further disrupt the undeveloped nature of the corner plot resulting in further harm to the character of the area.
12. The plans indicate that the rear elevation of the property would be sited within approximately 4.5 metres of the rear boundary with the maisonettes at 1 and 3 Howley Avenue. This falls short of the Council's separation guidance set out in their Places for Living Supplementary Planning Guidance (the SPG). As such, I am concerned that this would provide insufficient outlook from the rear facing ground floor windows and consequently the private amenity space would be of an inadequate size to serve the property.
13. The appellant indicates that these deficiencies could be addressed at the reserved matters stage when appearance, layout, scale and landscaping are considered. She suggests that the property could be repositioned within the plot and the side boundary treatment could be retained to sufficient height to provide adequate private amenity space to the side. However, this would likely further emphasise the prominence of the development in the street scene and therefore compound the harm I have found to the character and appearance of the area. I am therefore not convinced that the appellant has demonstrated that an acceptable level of outlook could be achieved, or suitable private amenity space could be provided for future occupiers.
14. With regard to privacy, the existing outbuildings along the boundary with 1 and 3 Howley Avenue and the oblique relationship with 71 Felstone Road would limit the opportunity for any overlooking, especially from ground floor windows. Furthermore, the indicative plan shows the rear facing first floor window would serve a bathroom and therefore this window is to be obscure glazed, eliminating any overlooking from this room. Thus, with regard to privacy, the proposal raises no concerns.
15. A neighbouring occupier suggests that the proposal would have a harmful overshadowing effect to adjacent private garden areas, however, the appeal site is to the Northwest of its neighbours at 1 and 3 Howley Avenue and to the Northeast of its neighbour at 71 Felstone Road. This spatial relationship and orientation is such that it would be impossible for the proposal to cast any shadows over the neighbouring rear private garden areas.
16. To conclude on this issue, the proposal would not result in any unacceptable levels of overshadowing or loss of privacy, however, adequate provision of private amenity space and acceptable levels of outlook have not been demonstrated. Consequently, the proposal has not demonstrated suitable living conditions for the future occupants of the development with regard to private amenity space and outlook. This is contrary to Policies PG3 and TP27 of the Birmingham Development Plan 2017, saved paragraphs 3.14 to 3.14D of the

Birmingham Unitary Development Plan 2005, the requirements of the SPG and the aims of the National Planning Policy Framework which together seek to promote high standards of sustainable design and maintain acceptable levels of residential amenity.

Other matters

17. I recognise the proposal would make a limited contribution to local housing supply and is located in an accessible location with good access to a range of local services, however, these benefits do not outweigh the harm I have found.

Conclusion

18. For the reasons I have set out, and having considered all other matters raised, I dismiss the appeal and outline planning permission is therefore refused.

Jeff Tweddle

INSPECTOR