
Appeal Decision

Site visit made on 24 July 2019

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2019

Appeal Ref: APP/P4605/W/19/3221215

The Spinney, 35 Moor Hall Drive, Sutton Coldfield, B75 6LR

- 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 Paul Ingram against the decision of Birmingham City Council.
 - The application Ref 2018/05883/PA, dated 16 July 2018, was refused by notice dated 13 November 2018.
 - The development proposed is erection of detached building to rear.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development on the application form is "summer house to the rear of garden". The description on the Council's decision notice and on the appeal form is "erection of detached building to rear". I have taken the description used on the appeal form, which to my mind more accurately reflects the proposal. The appeal statement confirms that the building would provide ancillary living accommodation to the main dwelling.
3. I also note that the post code given on the application forms and decision notice differs from that on the appeal forms. The appeal statement confirms the correct postcode as being B75 6LR.
4. At the time of my site visit the foundations and drainage pipes for the proposed development were already in situ.

Main Issues

5. The main issues are the effect of the development on i) the character and appearance of the area and ii) the health, stability and longevity of trees within and adjacent to the site.

Reasons

Character and appearance

6. Moor Hall Drive is a private road comprising large detached houses of varied design, situated in substantial plots of land with high quality landscaping, which makes a positive contribution to the character and appearance of the area.
7. The rear of the appeal site, where the proposed new building would be located, is not visible from the road and is screened from properties to either side by

existing trees and hedges. However, the dwelling directly to the rear of the site, which is not shown on the submitted plans, does appear to have a relatively short garden. Whilst I acknowledge that there is some planting along the rear site boundary, it is quite likely that in the winter months or in the event that this unprotected planting is damaged, removed or significantly cut back, that the development would be visually prominent to residents of the dwelling to the rear.

8. Whilst I was unable to see into the rear gardens of other properties in the area I have no reason to doubt that some of these will contain detached outbuildings. However, there is no evidence before me to suggest that any other two-storey outbuildings have been permitted or that these are characteristic of the area. I am also mindful of the fact that a single storey building could be erected in the garden under permitted development rights subject to meeting the relevant criteria.
9. The design of the proposed building, with its high level eaves and mansard roof to the rear, would not be in keeping with the existing dwelling on the site or with other buildings in the local area, which despite being varied, are all of traditional pitched or hipped roof design.
10. I acknowledge that the building would be subservient to the host dwelling and that a substantial area of garden space would be retained. I also find the proposed materials and the design of the front elevation to be appropriate. However these things do not outweigh my concerns regarding the height and design of the building, particularly when viewed from the property to the rear.
11. It was evident from my site visit that tree branches would need to be cut back to accommodate the height and width of the proposed building and upon undertaking such works the trees would provide a less effective level of screening from the dwelling to the rear of the site.
12. I therefore conclude on this issue that whilst not visible from public land, the design of the proposed building would not be in keeping with the character of the area. Furthermore, due to its height and proximity to the site boundaries, it would appear unduly prominent when viewed from the dwelling and garden to the rear of the site. The proposal is therefore contrary to policy PG3 of the Birmingham Development Plan (the Development Plan) and saved policy 3.14D of the Birmingham Unitary Development Plan (UDP), which seek amongst other things to ensure that new development is of high quality design that reinforces the local character of an area. The proposal would also conflict with paragraph 127 of the National Planning Policy Framework in this respect.
13. The Council's decision notice refers to guidance in their Extending Your Home Supplementary Planning Document. I find this to be of little relevance to the detached building proposed in this case.

Trees

14. Reason 2 of the Council's decision notice refers to a formally protected tree within the appeal site. From the Tree Preservation Order (TPO) before me, it is evident that there are no protected trees within the rear garden of the appeal site or along its rear boundary. However, the trees to the west /south west of the site do appear to be protected. Moreover, given the proximity of the proposed development to the site boundaries, regard must be had to any

potential harm to trees that are outside of the appellant's ownership, whether these are formally protected or not.

15. During my visit I observed low level overhanging branches, particularly in the western corner of the site, which would need to be removed to accommodate the proposed building. The trees, which appear to be mainly on land adjoining the site and outside of the appellant's ownership, make a positive contribution to the character and appearance of the area. Furthermore, it appears to me that at least two of the mature trees potentially affected are within the protected woodland area shown as W1 on the TPO Plan I have been provided with.
16. I have had regard to the arboricultural report submitted with the appeal and I note that care has been taken to reduce the risk of disturbance to tree roots. I also note that trees outside of the site have not been examined in detail and estimates have been made. Based upon my own observations, there appears to be a large mature tree closer to the site than shown and branches (other than those of the Laurel) do overhang the base of the proposed building that would need to be removed to enable the development to go ahead. The photographs and comments provided by Tree Heritage in the appellant's final comments also confirm that there was at least some minor overhanging from trees T4 and T5 at the time of their inspection.
17. Given the height of the proposed building and its proximity to the site boundary I also consider that future tree pruning would be necessary in order to maintain the building. I recognise that the main source of sunlight would be to the front of the building and that the appellant's intention is to retain the trees. However, this would not prevent the adjacent trees from interfering with roof lights and flues overtime, which would create pressure for further works or their removal either by the appellant or a future owner of the site. Cutting back the overhanging branches of trees outside of the appellants land, would unbalance them. This would in turn affect the amenity value of the trees as well as their health, stability and longevity.
18. The loss of or harm to trees that are protected and/or that are outside of the appellant's control is a material consideration to which I attach significant weight. The proposed development would therefore conflict with policy TP7 of the Development Plan, which seeks to conserve and protect trees. The loss of tree cover would also be detrimental to the character and appearance of the area contrary to Policy PG3 of the Development Plan.

Other Matters

19. I have considered the matters raised by third parties, which raise concerns regarding the use of the building as a separate dwelling and a one house per plot covenant. The appeal statement confirms that the building would provide ancillary living accommodation to the main dwelling and had I been minded to allow the appeal a condition could have been imposed to ensure this. Objections have also been raised to the scale of the structure and impact on trees, which I have addressed above. As the proposal does not relate to a new dwelling the access, parking and bin storage are not relevant.

Conclusion

20. For the reasons given above and having had regard to all matters raised I conclude that the appeal should be dismissed.

Rachael Bartlett

INSPECTOR