



---

## Appeal Decision

Site visit made on 27 August 2019

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 August 2019**

---

**Appeal Ref: APP/P4605/W/19/3230944**

**Land off Highfield Road and to the rear of 99 and 101 Harborne Road, Edgbaston, Birmingham B15 3HG**

- 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 Messrs Ben and Peter Black and Bache against the decision of Birmingham City Council.
  - The application Ref 2018/08841/PA, dated 30 October 2018, was refused by notice dated 4 January 2019.
  - The development proposed is erection of 2no detached dwellings on land accessed off Highfield Road in the grounds of a listed building.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The address as set out on the Council's decision notice is included in the above banner as it more accurately describes the location of the appeal site compared to the addresses as set out on the application and appeal forms.
3. The National Planning Policy Framework (the Framework) was revised on 19 February 2019 and this post-dates the Council's refusal notice. I have considered the Framework as part of the determination of this appeal.

### Main Issues

4. The main issues are whether the proposed development would preserve or enhance the character and appearance of the Edgbaston Conservation Area (ECA) and whether it would preserve the setting of nearby listed buildings.

### Reasons

5. The ECA is a sizeable area of mixed character and appearance. It lies close to the city centre and contains busy streets, but also includes quieter and less developed areas reflecting its history as one of the earliest planned residential suburbs. Parts of the ECA have been altered by more modern development, but properties from the early and mid-19th century remain, including 99 and 101 Harborne Road (Nos 99 and 101) and the neighbouring properties 103 and 105 Harborne Road (Nos 103 and 105). These properties are listed, with significance lying in their grandeur and original architectural features, reflective of their age and status as exclusive homes.

6. Whilst it may not have been historically, the appeal site now forms part of Nos 99 and 101's back gardens. The tree and shrubbery cover and lack of significant traffic noise create the semblance of a tranquil, quasi-rural site reflecting the character of the area when the listed buildings were constructed. Tall modern buildings are visible but are not intrusive and so do not undermine the secluded and pleasant character of the back gardens. For these reasons, the appeal site helps in the appreciation of the historic significance to the listed buildings as homes in one of the first planned semi-rural suburbs.
7. The appeal site is viewable from Highfield Gardens which is noticeably quieter than nearby main roads. Recent development affects its appearance and character to a degree, however, the relative tranquillity, narrow road width and presence of trees and bushes provide semi-rural qualities to the part of Highfield Gardens closest to the appeal site. These characteristics serve as a reminder of the road's original function as a minor service drive to the rear of properties facing onto the main roads. Being un-developed with significant tree cover, the appeal site makes a positive contribution to the appearance of Highfield Gardens and therefore adds to the historic significance and character of the immediate vicinity and to the ECA as a whole.
8. The proposed dwellings and garages would be set some distance from the listed buildings and the retained vegetation would partially obscure the buildings. However, the proposal requires the removal of some trees and shrubbery and so I am not convinced the buildings would be totally screened, particularly at times of leaf-fall. Furthermore, the proposal includes the provision of a new close boarded fence across both back gardens which will be clearly visible from Nos 99 and 101 and partially obstruct views towards the listed buildings from the southern edge of the appeal site. Also, whilst not seen from the main roads, the proposed buildings would be seen over boundary features when travelling past the site along Highfield Gardens.
9. By reducing the tree and shrubbery cover and introducing new buildings, the proposal would diminish the tranquil semi-rural qualities of the appeal site. Furthermore, there would be a degree of inter-visibility between the proposed development and the listed buildings and their back gardens which would undermine the sense of seclusion. Through a combination of these factors, the proposal would result in a marked and harmful change to the setting and historic significance of the listed buildings Nos 99, 101, 103 and 105.
10. The introduction of new buildings and reduction of tree cover would also diminish the semi-rural character of the part of Highfield Gardens close to the appeal site. The removal of the fence and gates along the boundary would result in an improvement to the site's appearance but any benefit in this regard would be outweighed by the detriment caused by the proposed development. Subsequently, the proposal would cause harm to the character and appearance of the ECA.
11. As such, I find the proposal would cause harm to the significance of the identified listed buildings and the ECA. I note the proposed development would not affect the built fabric of the listed buildings nor the setting of their front elevations. I also note that only a small part of the ECA would be directly affected by the scheme. As such, the proposal would not cause substantial harm, but nonetheless would lead to less than substantial harm to the listed buildings' and ECA's significance. Due to separation distances and lack of

inter-visibility, I find the proposal would cause no harm to the significance of any other heritage asset.

12. In these circumstances, the Framework states that the harm caused to the significance of heritage assets should be weighed against the public benefits of the proposal. However, great weight should be given to an asset's conservation and I am required to have special regard to the desirability of preserving the setting of listed buildings as well as preserving or enhancing the character and appearance of conservation areas.
13. The design of the proposed dwellings would be appropriate to the area and the proposal would cause no detriment to the living conditions of the occupiers of any existing property. However, acceptability of the scheme in these respects are neutral effects that fail to override the harm that would be caused to the significance of the heritage assets.
14. The proposal would add to the housing stock and there would be good accessibility to a range of services from the proposed dwellings. The scheme would also represent a more efficient use of land. However, any public benefit in these respects would be limited given the small scale of the proposal.
15. In addition to the above suggested benefits, I have noted the other points made by the appellant in support of the appeal scheme. However, these do not either singly or in combination, lead me away from my overall conclusion.
16. I find the public benefits do not outweigh the identified less than substantial harm to designated heritage assets. For the reasons set out above, the proposal would fail to preserve or enhance the character and appearance of the ECA and would fail to preserve the setting of nearby listed buildings, Nos 99, 101, 103 and 105. It would therefore be contrary to policies PG3 and TP12 of the Birmingham Development Plan 2017, the Edgbaston Conservation Area Character Appraisal Supplementary Planning Guidance and the Framework. These seek, amongst other things, to protect and enhance the historic environment and the significance of heritage assets.

### **Other Matters**

17. The appellant raises concerns over the Council's inconsistent approach in refusing permission for the appeal proposal but allowing the erection of apartments on the adjacent site. I have not been provided with the full details or background to this development and in any case, I have considered the appeal proposal on its own merits. However, I have taken account of the adjacent development in my assessment of the character and appearance of the area and the effects of the appeal proposal.
18. The appellant also raises concerns over the way the Council has assessed the planning application. However, this is not a matter for me to consider as part of this appeal.

### **Conclusion**

19. For the reasons given above, I conclude the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR