
Appeal Decision

Site visit made on 15 August 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2019

Appeal Ref: APP/P4605/W/19/3230547

Land to the side of 77 Heathy Rise, Bartley Green, Birmingham, West Midlands B32 3UD

- 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 Ajmal Pashtoonmal against the decision of Birmingham City Council.
 - The application Ref 2018/10282/PA, dated 14 December 2018, was refused by notice dated 17 May 2019.
 - The development proposed is construction of 3 new dwellings each 2 bedrooms and home study and parking space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have changed the postcode of the appeal address in the banner heading because the postcode on the application form and the Council's decision notice, namely B32 2UD, relates to Quinton Lane, Quinton some distance from the appeal site.

Main Issues

3. The main issues are:
 - i. The effect of the design and scale of the proposed dwellings and triple footway crossing on the character and appearance of the area,
 - ii. The effect of the proposal on the living conditions of occupiers of 79 Heathy Rise, with particular regard to light and outlook,
 - iii. The effect of the proposal on the visual amenity of the area with regards to trees, and
 - iv. Whether or not satisfactory access can be provided.

Reasons

Character and appearance

4. The appeal site is currently an overgrown semi enclosed parcel of land within an established 1960s housing estate of in a predominately residential area. It sits to the rear of a terrace of 4 dwellings (Nos.77 – 83 Heathy Rise). The northern end of the site adjoins a turning head shared by a terrace of

dwelling. The southern part of the site adjoins an area of grassed open space that surrounds a larger turning head with parking. There are pockets of incidental green open space around the estate, as well as trees, that contribute to its verdant nature. The surrounding area is predominantly a mix of semi-detached and short terraces of two storey pitched roof dwellings. Predominant building materials of dwellings in Heathy Rise are pebbledash, with brick end elevations, and interlocking roof tiles. The dwellings are of a simple functional design without adornment or architectural embellishment. There is an overall uniformity of design and layout which is characteristic of the estate.

5. The proposal is for the erection of a terrace of 3 dwellings. They would be two storey to eaves but with accommodation in the roof space. They would have rear private gardens of a similar size to those around. Access would be taken off the larger turning head to the south across the area of incidental grassed open space. The plans show there would be one on-site parking space for each dwelling.
6. The design of the proposed terrace of dwellings would be simple in their form and footprint, reflective of the surrounding dwellings. The dwellings would be brick rather than pebbledash or render. They would also have feature brick courses above all windows and doors and below window cills and brick banding below the eaves line. Whilst this would add some visual interest, these features are not found on the surrounding dwellings. Coupled with the brick elevations, the design appearance of the dwellings would be out of keeping with the surrounding area and prevailing uniformity.
7. With regards the scale of the proposed dwellings, the resulting two and a half storeys would be taller with ridge heights greater than the surrounding dwellings. This would be exacerbated by the large bulk of the terrace and the proposal would appear as an over dominant feature in the street scene, out of keeping with the prevailing scale of development.
8. As such, I find the design and scale of the dwellings would be harmful to the character and appearance of the area. Whilst the proposed internal accommodation and rooms sizes would be acceptable and plot sizes would be commensurate with the prevailing plot sizes, this does not outweigh the harm.
9. The proposal would also require the provision of access across an area of grassed incidental open space. The particular grassed area is part of a wider swathe of green space that extends around the turning head and visually softens the wide expanse of tarmac. Whilst its provision would provide manoeuvring space for vehicles without drivers needing to back out onto the highway, the loss of part of this green space to hardstanding would harm the verdant character and appearance of the area.
10. Accordingly, the proposal would be in conflict with Policy PG3 of the Birmingham Development Plan 2017 (BDP) and saved paragraphs 3.14C-D of the Birmingham Unitary Development Plan 2005 (UDP). These seek to ensure high quality design and that scale and design respect and reinforce local character and context and that development ensures public spaces are attractive. It would be contrary to the advice in the Council's 'Places for Living' and 'Places for All' Supplementary Planning Guidance. It would also run counter to the design advice in chapter 12 of the National Planning Policy Framework (the 'Framework') that promotes good design and seeks to ensure that new development is visually attractive from its architecture, layout and appropriate

and effective landscaping, as well as being sympathetic to local character. BDP Policy TP44 is more about the city's sustainable transport network than loss of green space for a large footway crossing, and is not directly relevant to the main issue.

Living conditions

11. The 'Places for All' SPG requires a minimum separation distance between windowed elevations and opposing 1 and 2 storey flank walls. The Council state that the distance between the rear windowed elevation of 79 Heathy Rise (No.79) and the blank side elevation of the nearest proposed dwelling would fall short of this distance by 1.5m. The standards are guidelines and in some instances can be overcome by design solutions. The plans show the proposed end unit built close to the site boundary, which gives no design opportunities for mitigation. Whilst the two elevations would not directly face each other, due to the angle of the proposed terrace, the proximity of the tall side blank elevation would have an unneighbourly, dominant and overbearing effect that would create an unsatisfactory outlook for the occupiers of No.79 from both their windows and rear private garden. There would also be some reduction in light at this close proximity.
12. Accordingly, the proposal would be contrary to BDP Policies PG3 and saved UDP paragraph 3.14C, which collectively seek to ensure high standards of design and that private external spaces are attractive. It would also be in conflict with the Places for Living SPG. BDP Policy TP27 relates more to broader measures to create sustainable neighbourhoods and is not directly relevant to the main issue.

Trees

13. The site appears to have been partly cleared of vegetation. On my visit I observed it was more overgrown than shown in the submitted photographs, although still strewn with rubbish, so it was not possible to see tree stumps and gauge the extent of any tree felling with any certainty. The trees were not protected, so the appellant could fell those within his ownership. Nor do I have any substantive evidence before me of what the site looked like before clearance to assess the contribution the trees made to the visual amenity of the area.
14. Some trees in the northern edge of the site would be within the proposed rear gardens although they would likely be too big for such spaces and would need to be removed. A landscaping condition could be imposed, if the appeal were allowed, requiring appropriate new tree planting. Despite any tree felling that may have occurred, there are existing mature trees in proximity to the site that continue to provide visual amenity and retain the area's verdant nature. Accordingly, in the absence of substantive evidence, there would be no conflict with BDP Policies PG3 and TP7, which seek, amongst other things, to resist loss of trees, but also to create attractive developments and encourage new tree planting.

Access

15. The application red edge boundary line only includes the site itself and not the grassed open space over which the 'driveway access' would need to be created.

Also, this access land does not appear to be in the appellant's ownership. Therefore, there is no guarantee that access could be provided.

16. Notwithstanding this, the Council has not raised any concerns or evidenced any adverse harm to the area, the wider transport network, or to highway safety that would arise if there was no vehicular access and parking. From my observations on site there is unrestricted on-street parking in the area and a bus stop close by on Woodgate Lane that would offer alternative modes of transport to the car, as encouraged by the Framework. Accordingly, the proposal would not be in conflict with BDP Policies PG3 and TP44 that seek, amongst other things, to ensure that development creates attractive environments and that there are no adverse effects of development on the transport network.

Other matters

17. I have been made aware that the site has had previous planning permissions for housing in the past, but I do not have the full details of these schemes which were granted before the current development plan was adopted. The Council has no objection in principle to residential development of the site. However, these matter do not outweigh the harm the proposal would cause to the character and appearance of the area and to the living conditions of occupiers of No.79.

Conclusion

18. Drawing all the above points together, the proposed development would not have a materially harmful effect upon visual amenity or there being no parking. But my findings on the harm to the character and appearance of the area and to the living conditions of occupiers of 79 Heathy Rise outweigh the findings on the last two main issues. Therefore, I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR