



Appeal Decision

Site visit made on 15 May 2019

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/P4605/W/19/3223035

1-2 Bantock Way, Birmingham B17 0LY

- 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 & Mrs Guraya against the decision of Birmingham City Council.
 - The application Ref 2018/09019/PA, dated 18 December 2018, was refused by notice dated 24 January 2019.
 - The development proposed is first floor side extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has produced a Solar Analysis Study and drawings as part of the appeal process. The Local Planning Authority has had opportunity to comment on them and as such I have taken this additional information and drawings into consideration.

Main Issues

3. The main issues to be considered are the effects of the proposed development on: i) the living conditions of neighbouring residents at Kendal Tower in terms of light and outlook; and ii) the character and appearance of the area.

Reasons

Living conditions

4. The appeal site is an end of terrace dwelling with a flat-roofed single storey wrapped around the rear and side, projecting forward of the remainder of the terrace. The site is located adjacent to the Kendal Tower, a tall apartment block to the east of the appeal site. A pedestrian walkway separates the two buildings.
5. When I visited the site, it was a sunny spring morning and I was able to see that the Kendal Tower cast a substantial shadow over the appeal site and the parking area. The proposed development would be relatively small in scale and there would be no additional harmful overshadowing of the neighbouring flats at Kendal Tower as a result of the development. This is shown by the appellant's solar assessment which demonstrates the effect of the development on the Kendal Tower would not be significant with regard to shadowing. The

Council confirms that the 45 degree test as measured from the flats would not be breached. Therefore, given the height and scale of the Kendal Tower, together with its positioning in relation to the appeal site there would be only a very limited impact in terms of loss of light to the flats at the first and second floors.

6. The development would bring a second storey side wall at the host site closer to the flats at Kendal Tower, in line with the existing flat roofed element of the building. First floor and second floor flats at Kendal Tower have windows facing directly at the appeal site.
7. The effect of the development would be to create a wall facing the flats at Kendal Tower which effectively doubles the height of the existing building at Bantock Way. This would occur at an oppressively close proximity to first floor and second floor openings on Kendal Tower such that it would be the overbearing feature in the perspective from these windows. This enclosing effect would significantly harm the outlook and living conditions of the flats due to the dominance and scale of the proposed development resulting in a particularly gloomy and dismal perspective.
8. I accept that the inclusion of the hipped roof away from the Kendal Tower would to an extent mitigate for the overbearing and enclosing effect of the extension, however I am not persuaded that this would be sufficient to overcome the harm identified due to the overall massing and proximity of what is proposed. The appellant also says that the current layout of the appeal site is a strong presence in terms of outlook from the flats and the proposed development would not contribute towards any further obtrusion. I agree that the existing single storey ground floor area of the appeal does not prejudice the amenity or outlook of the flats and the two storey elements remain set back from the immediate outlook. However, the appeal development would bring forward the two storey element closer to the Kendal Tower, significantly changing the outlook to those flats affected.
9. I therefore conclude that the appeal proposal would result in significant harm to the living conditions of neighbouring residents at Kendal Tower in terms of light and outlook. The proposal is therefore contrary to the policies of the Birmingham Development Plan (2017) (BDP) in particular policies PG3 and TP27 which seek to achieve a high quality design for private space and paragraph 3.14C of the Birmingham Unitary Development Plan (2005) (UDP) and which expects high quality design, including the relationship between buildings, and requires regard to be had to the relevant SPD and SPG. This includes the Extending Your Home Supplementary Planning Document (March 2007) (SPD) which sets out policies to help protect the outlook of neighbouring properties. This includes a requirement for 12.5 metres between windowed elevations and one and two storey flank walks opposite. These requirements are echoed in The Places for Living Supplementary Planning Guidance (March 2001) (SPG). The appeal proposal would be significantly less than this 12.5 metre separation distance. The proposal would also fail to accord with the National Planning Policy Framework at paragraph 127 which requires all development to create places which promote well-being and a high standard of amenity for all.

Character and appearance

10. The site is located in a residential area with modern buildings of varying types and sizes, including the apartment block at Kendal Tower. The proposed development would introduce a hipped gable to the end of the terrace of which the appeal site is a part.
11. The development would follow the existing building line of the two storey element of the dwellings at Bantock Way, and would not project beyond the height or the front or rear elevations of the existing. The terrace itself features gabled ends, and whilst this is characteristic of the immediate dwellings nearby, there is nonetheless an appreciable degree of variation in the overall appearance of housing in the host terrace and locality more widely. Given the shape and form of the extension and the use of materials to match, the hipped gable at the end of this terrace would not inherently harm the overall character and appearance of the local area.
12. I therefore conclude that the appeal proposal would not harm the character and appearance of the area. The proposed development would not conflict with to policy PG3 of the BDP and paragraphs 3.14C-D of the UDP which expect high quality design of new developments and that the scale and design respect the local area and characteristics.

Other Matters

13. The appellant submits that the scheme would provide additional family accommodation potentially releasing another dwelling elsewhere in the city to help meet the housing requirement. There is little evidence that this outcome would be secured by the appeal proposal or that the appellants' family housing needs cannot be met in ways which would not result in the significant harm to neighbouring outlook as would occur with the appeal proposal. As such this does not justify the harm identified. I also note that there are no local objections to the appeal proposal but, again, that does not remove or lessen the harm that I have identified.

Conclusion

14. Whilst I have found that there would not be harm to the character and appearance of the area, or harm arising from a loss of light to the occupiers of flats on Kendal Tower this does not outweigh the significant harm identified to neighbouring residential amenity in terms of the loss of outlook. For the above reasons and having considered all matters raised I conclude the appeal should be dismissed.

Rebecca Thomas

INSPECTOR