



Appeal Decision

Site visit made on 25 September 2019

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal Ref: APP/P4605/W/19/3225542

34 Oak Close, Birmingham B17 9AW

- 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 MADE Architecture against the decision of Birmingham City Council.
 - The application Ref 2018/05607/PA, dated 9 July 2018, was refused by notice dated 19 December 2019.
 - The development proposed is proposed 2no dwelling houses off Oak Close, on land adjacent to no 34 Oak Close.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues are:-
 - the effect of the proposed dwellings on the character and appearance of the area;
 - the effect on the living conditions of future occupiers of the proposed dwellings; and
 - access during and after construction.

Reasons

Character & Appearance

3. The appeal site is an area of land comprising fruit trees and other vegetation. Pedestrian access is from a gated and locked footpath to the east of No 152 Hampton Court Road. No 152 is an end terraced house located at right angles to a terraced row of houses on Earls Court Road. The appeal site lies to the north of No 79 Earls Court Road between which there is another gated footpath. No 34 Oak Close is in a row of terraced house with a footpath leading from the road across the front of the houses; No 34 is at the end adjoining the northern boundary of the appeal site. At the time of my site visit, the footpath terminated with solid timber fencing and there was also an overgrown footpath to the west of No 34. There is no vehicular access to the site.
4. The area surrounding the appeal site is that of an urban residential area with the appeal site being an unusual green area. There is no physical identifiable

relationship between the appeal site and any of the immediate adjoining properties.

5. Policy PG3 of the Birmingham Plan¹ established that all new development is expected to demonstrate high quality design that contributes to a strong sense of place. A set of criteria are listed to achieve this. Birmingham Plan Policy TP27 indicates that new housing is expected to contribute to making sustainable places. It establishes that at the heart of the City's growth agenda is the concept of sustainable neighbourhoods. It seeks to ensure that future housing is delivered in the most sustainable way contributing to creating a sense of place and high standards of design, amongst other things. Saved UDP² Paragraph 3.14C indicates that development should have regard to the Council's development guidelines, including Places for Living SPG³.
6. The appellant describes the proposed houses as extending the linear development comprising Nos 16 to 34 Oak Close. However, the proposed houses would be separate from the existing ones and sit slightly forward of them. Nevertheless in terms of orientation and pedestrian access they would not be dissimilar although overall I consider that this relationship is a tenuous one. The proposed houses would not however relate to the houses in Hampton Court Road or Earls Court Road. I consider that they would sit isolated from those around it and fail to respect the overall character of the area.
7. On this issue therefore I consider that the proposal would be inconsistent with the objectives of the Council's policies referred to above and have a harmful effect on the character and appearance of the area.

Living Conditions

8. The proposal comprises a pair of semi-detached three-bedroomed houses each fronting the side gable of No 152 Hampton Court Road. The policies referred to in the Council's reasons for refusal are set out above. Of particular relevance to the living conditions of the future occupiers of the proposed houses is the guidelines set out in the SPG. The proposed dwellings would be below the separation distance between the front elevations and the side gable of No 152 Hampton Court. Whilst this shortfall is relatively small and is based on a guideline only, it demonstrates a somewhat cramped development.
9. The proposed houses would also have a substantial amount of the side gable of No 79 Earls Court Road forward of their front elevation. The orientation of the dwellings also does little to create satisfactory living conditions in terms of outlook and the oppressive impact future residents could experience. This would be particularly the case for the house closest to No 79. Therefore, I consider that the proposal would fall short of the guideline in the SPG and therefore be inconsistent with Paragraph 3.14C of the UDP.
10. I conclude on this issue therefore that the position of the dwellings in relation to the neighbouring properties could have a harmful effect on the living conditions of future occupiers of the proposed development.

¹ Birmingham Plan 2031 Birmingham Development Plan Part of Birmingham's Local Plan Planning for sustainable growth, Adopted January 2017.

² The Birmingham Plan Birmingham Unitary Development Plan 2005 – The Birmingham Plan Adopted by Birmingham City Council 6 July 1993 Incorporating Alterations approved by Birmingham City Council for adoption, 11 October 2005.

³ Places for Living, Adopted by Birmingham City Council Regeneration Advisory Team as Supplementary Planning Guidance March 2001.

Access

11. As there is no vehicular access to the site, pedestrian access only is available. The proposed site plan indicates that access would be from the footpath to the west of No 34 Oak Close. I accessed the site from a gated pedestrian access between the terraces at Hampton Court Road and Earls Court Road to the south of the appeal site. From the proposed site plan this access would not seem to be available to future occupiers of the proposed houses.
12. I note that the houses to the north of the site at Oak Close also do not have direct vehicular access although the proposed houses would be a little further away from the road at Oak Close. Although the appellant has indicated a lack of communication with the Council regarding this, I am mindful that no details have been submitted regarding construction of the proposed dwellings in the context of access.
13. This issue is a further indication about the inappropriateness of the proposed development considering the Council's policies referred to above. I have taken account of the sustainability of the appeal site in terms of its access to nearby services and facilities as well as public transport. Whilst this is a positive aspect of the site it does not overcome my practical concerns about access to a public highway.

Conclusion

14. I conclude that the proposal would have a harmful effect on the character and appearance of the area contrary to policies PG3 and TP27 of the Birmingham Plan and UDP paragraph 3.14C and the advice in the SPG. The adverse effect on future occupiers of the proposed dwellings and concerns about access to the site add to the overall unsuitability of the site for the development as proposed.
15. I have considered the proposal in the light of the Planning Policy Framework⁴ and the sustainability of the site in terms of its location and the use of land in the urban area for housing but this together with the other matters raised does not alter my conclusion.
16. I conclude that the proposal is unacceptable for the reasons stated and therefore the appeal fails.

J D Clark

INSPECTOR

⁴ Ministry of Housing, Communities & Local Government National Planning Policy Framework, July 2018.