
Appeal Decision

Site visit made on 27 August 2019

by S Shapland BSc (Hons) MSc CMILT

an Inspector appointed by the Secretary of State

Decision date: 14 October 2019

Appeal Ref: APP/P4605/W/19/3231558

23 Anchorage Road, Sutton Trinity, Sutton Coldfield B74 2PJ

- 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 MCD3 Limited (Mr M Ostendorf) against the decision of Birmingham City Council.
 - The application Ref 2018/08796/PA, dated 29 October 2018, was refused by notice dated 24 December 2018.
 - The development proposed is extension of the existing building to provide a total of 6 flats (5 x 2 bed, 1 x 1 bed).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the host property, a Grade B locally listed building, and surrounding area including the Anchorage Road Sutton Coldfield Conservation area;
 - Trees within and adjacent to the site; and
 - the living conditions of neighbouring occupiers at No.25, with particular regard to privacy.

Reasons

Character and Appearance

3. The appeal site is a substantial brick built two-storey building which fronts Anchorage Road, Sutton Coldfield. The building known as 'The Manse' is locally listed and currently is subdivided into four self-contained apartments. The building has two single storey rear wings which extend into a sizeable rear garden. Whilst the building has been previously extended, it still resembles a large dwelling house when viewed from Anchorage Road.
4. The appeal site is within the Anchorage Road Sutton Coldfield Conservation Area (CA). The character and significance of the CA is derived from the variety of designs of large detached and semi-detached dwelling houses set within large mature gardens. The appeal property is significant as it has a number of individual design features which are not replicated in neighbouring dwellings.

5. The appeal proposal is for a two-storey rear extension, which combined with internal remodelling of the existing building would allow for two additional self-contained flats. As such the proposal would add an additional storey on the existing outrigger on the southern elevation of the building, with an additional new two storey element which would extend beyond the rear of the host building.
6. The proposal has been designed to replicate features of the host building, which includes box dormers on the roof and the use of similar materials. It has been designed to appear as a smaller version of the host building. I understand that this design process has been iterative. However, it would still be a sizeable rear extension. The resultant scale and mass would not be subservient to the host building.
7. Whilst the proposal is at the rear of the building, it would be visible between the gaps between the host dwelling and the neighbouring properties. When viewed from the public realm, the proposal would be an incongruous addition to the host building. This is in part due to the single storey link section which would lead to a disjointed appearance between the extension and the host building.
8. Given the local significance of the building as a whole it has been identified by the Council as a Grade B locally listed building. As a non-designated heritage asset, in accordance with paragraph 197 of the National Planning Policy Framework (the Framework), I am required to balance the scale of any harm to the significance of the host building. Consequently, the scale, mass and visibility of the proposal leads me to find harm to the character and appearance of the host building and its significance as a non-designated heritage asset.
9. The appellant has questioned why the host building has been locally listed, and what aspects the listing is seeking to preserve given that in their opinion the rear and side elevations of the building do not have any heritage aspects which are worth preserving. Although disputed there is insufficient evidence presented to me to conclude whether this building is correctly identified as a non-designated heritage asset. I am required to determine the appeal based on the planning merits of the proposal, which is what I have done.
10. As the appeal site lies within the CA, I have a statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act) to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
11. For the reasons given above, I have found harm to the character and appearance of the host property. Given the buildings significance within the CA, and the fact that the proposal would be visible from the public realm, I find that the proposal would harm the character and appearance of the CA. Given the proposal is at the rear of the property and its scale, the harm identified would be less than substantial.
12. Paragraph 196 of the Framework states that where the development proposal will lead to a less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the

proposals. Turning to these public benefits, the proposal would provide two new dwellings which the appellant states would be available at an affordable price. The site is located within an accessible location thus reducing the need to travel by private car for access to services and facilities. The appellant has stated that the development would result in a housing density of 45 dwellings per hectare, which is a lower density than required within the development plan. The suggestion relating to housing density is not, in my judgement, a public benefit in this case. However, these suggested benefits would not outweigh the harm I have identified above.

13. The appellant is of the view that the proposal would build on previously developed brownfield land. Paragraph 118 of the Framework states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. However, the definition of previously developed land within annex 2 of the Framework excludes land in built up areas such as residential gardens. The appellant has not provided any cogent evidence as to why the site should be considered previously developed land, and as such little weight can be given to this point.
14. Consequently, I find that the proposal would harm the character and appearance of the appeal property as a locally listed building, and surrounding area including the CA. It therefore conflicts with Policies PG3 and TP12 of the Birmingham Development Plan 2017 (DP), the Act and paragraphs 193, 196 and 197 of the Framework. Together these policies collectively seek, amongst other things, that development is of a high-quality design that responds positively to local character and gives great weight to the conservation of heritage assets.

Trees

15. There is a mature tree within the garden of the host building. No arboricultural reports have been submitted to demonstrate the impact the proposal would have on this tree, and specifically any impact on the root protection area of the tree. The tree serves as an important role within the context of the host property by providing an attractive feature of the rear garden.
16. Whilst the appellant has stated that the production of an arboricultural report could be secured via a planning condition. I do not agree since the contents of this report would have an effect on the acceptability or not of the principle of the development. As such it would not be appropriate to be secured by a planning condition. Consequently, in the absence of any cogent evidence by the appellant regarding the effect of the proposal on the tree, I find conflict with Policy PG3 and TP7 of the DP. Together these policies seek, amongst other things, that development is of a high-quality design which protects green infrastructure.

Living Conditions

17. The proposal includes a number of dormer box windows within the roof which face neighbouring properties. These windows would enable occupants of the host property to look directly into the rear garden of No 25 Anchorage Road. The appellant has submitted additional plans¹ as part of the appeal proposal which clarifies the height of these windows which were omitted from plan

¹ Proposed First Floor Plan, drawing reference GA06 Rev D

reference 888-7/GA06 Rev C. Given the height of these windows which exceeds 1.7M and thus be above the eyeline, I find there would be no harm to living conditions at No.25, with particular regard to privacy. Consequently, I find no conflict with policies PG3 and TP27 of the DP, saved Policy 3.14C of the Birmingham Unitary Development Plan 2005 and the Places for Living SPG. Together these policies seek, amongst other things, that development is of a high-quality design which protects residents' amenities.

Conclusions

18. Whilst I have found no harm to living conditions of neighbouring occupiers would arise from the proposal, I have found that it would harm the character and appearance of the host building, and the surrounding area including the Anchorage Road Sutton Coldfield Conservation Area and the potential impact upon the mature tree on the appeal site. For these reasons given above the appeal is dismissed.

S Shapland

INSPECTOR