



Appeal Decision

Site visit made on 28 October 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/P4605/W/19/3235332

10 Sloane Street, Birmingham B1 3BX

- 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 V Gotz against the decision of Birmingham City Council.
 - The application Ref 2018/10042/PA, dated 10 December 2018, was refused by notice dated 15 February 2019.
 - The development proposed is the demolition of industrial warehouse and erection of 3 town houses with 4 floors and 1 basement level.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the significance of the Jewellery Quarter Conservation Area (JQCA)
 - the living conditions of future and nearby occupiers, with particular regard to outlook.

Reasons

Significance of the JQCA

3. The appeal building is located within the Industrial Fringe part of the JQCA, which contains an important concentration of buildings linked to the historic and continuing manufacture of jewellery, and associated trades. It is a 2-storey, 20th century, former industrial building, which forms the end of Sloane Street.
4. Next to the appeal building on Sloane Street are similar scaled derelict industrial buildings and vacant plots. A short distance to the southwest is the Grade II listed 1-7 Sloane Street, a 3-storey brick building. On the opposite side of the road is a smaller scale and largely derelict brick building adjacent to a fenced surface car park, by the junction with Camden Street.
5. To the north of the appeal building is the recently constructed Legge Lane Court residential development, which is some 4/5-storeys in height, whilst to the east, and further from the appeal site, are modern 4-storey residential buildings and a somewhat smaller office building facing onto Newhall Hill.

6. The JQCA is a designated heritage asset and in my view, its significance is derived from the ongoing and historic manufacture of jewellery; the buildings associated with this use, the traditional street pattern and the views afforded of the area in part as a result of the hilly topography.
7. The appeal building was constructed in the mid-20th century and there is no compelling evidence that the building was connected to Jewellery manufacture or a related trade. The building has been used for various purposes since its construction and the ground floor is currently used for storage purposes, with the first floor largely vacant. The building does not currently make a positive contribution to the significance of the JQCA.
8. The proposed development would entail the demolition of the existing building and the construction of three adjoining townhouses, together with a gated courtyard area by Sloane Street. The existing boundary wall would be retained and would largely enclose the appeal development up to first floor level. The three dwellings would be accessed from the courtyard and would have six levels, a basement; ground floor including a garage and private garden area; three upper floors; and, a roof space which includes only a limited built form, with sitting-out areas and flat sedum roofs.
9. The proposed development would be considerably taller than the existing building and consequently more visually prominent. However, its height would still be significantly lower than the 4/5-storey Legge Lane Court development to the north and somewhat lower than the roof ridgeline of the Grade II listed 1-7 Sloane Street, which is only a 3-storey building.
10. The Council makes reference to the maximum permitted height of four storeys for new buildings in most of the JQCA, contained in the Jewellery Quarter Conservation Area Design Guide Supplementary Planning Guidance 2005 (JQCADG). However, I note that there are new buildings in the immediate vicinity of the appeal site that are taller than four storeys, and that 1-7 Sloane Street is taller than the appeal building would be, despite having only three storeys. I therefore give the JQCADG only very limited weight in this regard.
11. The appellant has also provided illustrative details of a development approved to the southeast and southwest of the appeal site¹. The proposed development would be taller than the building approved to the south west, and I note the Council's comments regarding the height of this structure. However, it would be of a similar height and massing to the 4-storey buildings approved as part of this other planning permission to the south east. Whilst the roof level of the appeal building would be taller than these other buildings, the limited scale and footprint of the roof level structures means that it's appearance would not be significantly so.
12. The Council makes reference to sun decks, Juliet balconies and integral garages as being out of character with the streetscene in this part of the JQCA. However, none of these features would be readily visible from publicly accessible land. Furthermore, I disagree with the Council's comments regarding the integral garages, given the substantial integral storage area with bi-fold metal entrance door on the existing appeal building.

¹ LPA Ref. 2017/00012/PA

13. The design and materials of the proposed development, including the proposed pattern of windows, would not be out of keeping with the character and appearance of this part of the JQCA, which includes a range of traditional and modern buildings of varying designs.
14. Furthermore, whilst the appeal development would be visible along Sloane Street from Camden Street, and from other streets nearby, the topography and the existing built form of this part of the JQCA means that the appeal building would not be particularly prominent in views across the area. In any event, and as set out above, the design, scale, and massing of the appeal building would not be out of keeping with the character and appearance of this part of the JQCA.
15. For these reasons the appeal development would not adversely affect the significance of the JQCA and would thereby preserve it. Consequently, the appeal development would not conflict with Policies PG3 (place making) and TP12 (historic environment) contained in the Birmingham Development Plan 2017 (BDP) and with the National Planning Policy Framework 2019 (the Framework).

Living conditions

16. Given the street layout and the historical development of the area, buildings and plots are positioned in relatively close proximity to each other. To the immediate north of the appeal site is the existing 4/5 storey Legge Lane Court.
17. The proposed building would be significantly taller than the existing building on the appeal site. However, in this dense, urban context, the siting, height and massing of the appeal building would not be overbearing to the occupiers of the taller Legge Lane Court building to the north, or other nearby buildings. It would not, therefore, harmfully affect the outlook for nearby occupiers and would not conflict with Policy PG3 of the BDP, saved Paragraph 3.14C of the Birmingham Unitary Development Plan 2005 and with the Framework, in this regard.
18. At ground and first floor level the existing boundary wall surrounding much of the appeal site would be retained, thereby largely enclosing the appeal development. However, at second and third floor level the appeal development would rise above the boundary wall, with windows to habitable rooms facing northwards towards Legge Lane Court.
19. To resolve problems of overlooking to and from these habitable rooms, the submitted plans show that the appeal building would have obscure glazing fitted to the windows 'to eye level', with clear glazing above. Whilst 'eye-level' would vary from person to person, given the purpose of the obscure glazing it is likely that a height of some 1.7metres above the floor levels would be used. This would be the same height as is contained in parts of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (the GPDO)².
20. However, in resolving potential overlooking issues between Legge Lane Court and the appeal building, the outlook from the habitable rooms containing the obscure glazing to 'eye-level' would be consequently and significantly reduced.

² Various classes, including Schedule 2, Part 1, Classes A and B.

21. In their final comments the appellant makes reference to a planning approval granted for a similar scheme by the Council at the appeal site³, and has provided a copy of the Council's officer report, and various documents associated with this proposal, although not the Decision Notice granting planning permission. Whilst the details on the submitted floorplans are not fully legible, I note that there are both similarities and differences between the 'approved' scheme and the appeal before me.
22. In any event, and regardless of the later scheme, I am satisfied that the very limited outlook, caused by the obscured glazing to 'eye-level' in habitable rooms at second and third floor levels, would cause significant harm to future residents, in the appeal before me.
23. For these reasons, the appeal development would have an unacceptable impact on the living conditions of future occupiers with particular regard to outlook. It would therefore conflict with Policy PG3 of the BDP, saved Paragraph 3.14C of the Birmingham Unitary Development Plan 2005 and with the Framework, in this regard.

Conclusion

24. Whilst I have found that the proposed development would not detract from the significance of the JQCA and would have an acceptable impact upon the living conditions of nearby occupiers, this would be outweighed by the significant harm to the living conditions of future occupiers with particular regard to outlook.
25. Therefore, for the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

³ LPA Ref. 2019/04626/PA