
Appeal Decision

Site visit made on 17 December 2019

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/P4605/W/19/3238207

12 to 18 Lonsdale Road, Birmingham, B17 9RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Gregg Morgan (Metro (Birmingham) Limited) against Birmingham City Council.
 - The application Ref: 2019/01828/PA, dated 25 February 2019.
 - The development proposed is demolition of commercial units and erection of 4no. new build town houses.
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Decision

1. The appeal is dismissed, and planning permission is refused for the demolition of commercial units and erection of 4no. new build town houses.

Preliminary Matter

2. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as the appellant was not present when I arrived at the appeal site during the pre-arranged period. I was satisfied that I could view the relevant parts of the site from the public realm.

Background and Main Issues

3. The appeal results from the Council's failure to determine the planning application within the statutory timescale. The council has indicated that had it been in a position to determine the application within the statutory timescale it would have refused permission on the basis that the proposed development would not provide an adequate separation distance to existing residential units at Timber Mill Court and would lead to a loss of light and outlook. Furthermore, that the scale and design of the proposed dwellings would not reflect the existing character of the street scene. The Council consider the proposal would therefore be contrary to Policies PG3 and TP27 of the Birmingham Development Plan 2017, (BDP) saved paragraphs 3.14C-D of the Birmingham Unitary Development Plan, 2005 (UDP) and guidance in the Supplementary Planning Guidance: Places for Living, 2001 (SPG-PFL) and Places for All, 2001, (SPG-PFA) and the National Planning Policy Framework (the Framework).
4. The main issues are therefore the effect of the proposed development on:
 - the character and appearance of the area; and

- the living conditions of the occupants of Timber Mill Court with particular regard to outlook, sunlight and daylight.

Reasons

Character and appearance.

5. Lonsdale Road is predominately residential though the appeal site comprises of a terrace of single storey, flat roof commercial buildings which are set back from the frontage. Whilst there are a mix of dwelling styles and designs in the surrounding area there is a regularity in the street scene with dwellings primarily being two, or two and a half storey, halls-together terrace properties. Pitched roof dormer windows and single or double height bay windows to the frontage are also strong characteristics of the street scene.
6. Timber Mill Court is a more modern three-storey residential development and whilst it incorporates features such as two-storey front projections and oriel windows, which break up its overall bulk and dominance, these features and the overall size and design of the building is not reflective of the predominant character and appearance of development in the surrounding area.
7. The appeal scheme comprises two pairs of three-storey, semi-detached properties. The development, save for the canopies proposed over the entrances, would have a largely flat frontage. Considering this and its overall height the development would have a bulky appearance.
8. The proposal incorporates pitched roof gable features above the third-floor windows. Due to their size and design they would not reflect the dormer windows in the vicinity nor the design of features on Timber Mill Court. They would also add a vertical influence to the frontage, visually emphasising the overall height and bulk of the proposed buildings.
9. Considering the overall size and design of the proposed development it would be a dominant and incongruous addition within the street scene, at odds with the prevailing pattern of development in the surrounding area.
10. It is noted that the existing buildings at the appeal site, being single storey, also do not reflect the predominant character and appearance of the street. However, due to their limited height and set back they are not dominant features in the street. As detailed above I consider the proposed development would result in significant harm and any benefit from the removal of the existing buildings would not outweigh this harm.
11. The proposal would therefore be contrary to BDP Policies PG3 and TP27 and UDP saved paragraphs 3.14C-D, which seek to ensure that all developments achieve a high design quality, reinforcing local distinctiveness and responding to site conditions and the local area context. For the same reasons the proposals would fail to achieve the high-quality design requirements of the SPG-PFL, SPG-PFA, Supplementary Planning Document – Mature Suburbs, 2008 or Section 12 of the Framework.
12. The Council have referenced UDP paragraph 3.14E though from the detail submitted this does not appear to be a saved paragraph.

Living Conditions

13. There are habitable room windows to the side of Timber Mill Court that face on to the appeal site and are in very close proximity to the site boundary. Although the proposed development would incorporate an inset from the boundary there would still be limited separation to the existing windows.
14. The existing boundary treatment would impact on the outlook from the ground floor windows at Timber Mill Court. However, considering its height and that of the existing buildings on site I do not consider these would be overly dominant or intrusive features. The windows at first and second floor level currently have an outlook over the appeal site. Whilst this may be onto the existing buildings and car parking area it is unrestricted, and not an uncommon arrangement in an urban setting such as this.
15. The appellant states that the windows in the side of Timber Mill Court are secondary windows that serve kitchens. They consider the kitchens are too small to be used for dining purposes and therefore have more of a utility use. The evidence before me however suggests that these are the only windows to the kitchens. It cannot reasonably be assumed that these habitable rooms would be occupied less simply because they could not accommodate dining space, and occupiers of the adjacent properties should expect to be able to enjoy the use of the room without feeling unacceptably enclosed.
16. The proposal would result in a large flank elevation, in very close proximity and directly opposite these kitchen windows and there would be little relief from the built form in outward views. Consequently, the development would be a dominant and visually intrusive feature when viewed from these windows and this would not be an improvement on the existing situation.
17. The outdoor garden area to the rear may provide for a slightly improved outlook from the rear of adjacent properties though this would be limited and would not outweigh the harm I have identified. That the proposed buildings themselves would not impact on existing windows to bedrooms or living rooms would have a neutral effect, and this does not weigh in favour of the appeal.
18. The height of the existing buildings at the appeal site reduces to the rear, and in terms of overshadowing their current impact on the windows to the side of Timber Mill Court would be limited. Considering the orientation of the appeal site, and the height and proximity of the proposed development to the side boundary, there would be a significant impact on the sunlight and daylight to the existing kitchen windows.
19. In order to protect neighbours' enjoyment of their home the SPG-PFL sets out standards to be applied in assessing the impact of new development. This includes minimum separation distances between proposed development and main windows.
20. It is acknowledged that the SPG states the main focus should always be on achieving the objectives behind the numerical standards and that careful design, rather than a simple blanket application of them, can often address concerns. However, the proposed design and layout of the development does little to minimise the significant and unacceptable harmful impacts on adjacent occupiers that I have identified above.

21. On that basis the proposed development would be contrary to BDP Policy PG3 and UDP saved paragraphs 3.14C-D, which state that developments should respond to site conditions and have regard to the guidelines set out in the SPG-PFL and SPG-PFA which seek to ensure that developments relate well to existing development and do not seriously affect the outlook, or sunlight and daylight to adjoining properties.

Planning Balance

22. I note that Policies within the BDP and the Framework emphasise the need to support the efficient use of land and significantly boost the supply of new homes, and the proposed would provide an additional 4 dwellings close to existing facilities and services. This provision and any employment created during construction or from future occupants use of local services would only result in temporary and modest benefits. Therefore, whilst I have taken this into account, I do not consider these benefits would be sufficient to outweigh the harm I have identified.
23. Furthermore, that the proposal may incorporate private outdoor garden space and incorporate current standards in respect of green energy and thermal insulation would have a neutral effect, and therefore do not weigh in favour of the appeal.
24. The appellant and interested parties have stated the site is currently affected by vandalism and antisocial behaviour, and the development would improve this situation through provision of secure rear gardens. There is however little detail in the evidence before me to demonstrate this and I did not see any evidence of such on my site visit. I note that BDP Policies and the Framework emphasise the need to create safe environments. However, as detailed above they are also clear that developments must achieve a high-quality design and respond to local context and existing development. Overall, I do not consider any benefits of the proposal would be sufficient to outweigh the harm I have identified above, and the proposal would not accord with the Development Plan or Framework in the manner I have explained.

Conclusion

25. For the reasons given above, I conclude that the appeal should be dismissed, and planning permission refused.

A Denby

INSPECTOR