
Appeal Decision

Site visit made on 7 January 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/P4605/D/19/3240357

8 Metchley Park Road, Birmingham, B15 2PG

- 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 Dr G Shiravi against the decision of Birmingham City Council.
 - The application Ref 2019/06464/PA, dated 31 July 2019, was refused by notice dated 25 September 2019.
 - The development proposed is retrospective application for front boundary railings and new metal gates and railings to both side front boundaries.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On the site visit I noted that some works have been undertaken at the appeal site. In determining this appeal my decision has been considered on the basis of the plans submitted and on which the Council made its decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The site comprises a detached two-storey dwelling which is set back substantially from its frontage. The site has a paved in-out driveway with some areas of landscaping present to the side and front boundaries.
5. Whilst there is some variety in the frontage treatments to properties on Metchley Park Road, they are predominantly low-level brick walls with hedges or landscaping adjacent, and openings in the frontage treatment for access to driveways.
6. There is higher timber fencing on the opposite side of the road from the appeal site to the rear boundaries of properties that front Barlows Road. Although in a slightly elevated position the fencing is set well back from the highway atop a small grass embankment. There is also a grass verge to the roadside and mature trees to the plots themselves and within the highway verge. Therefore, whilst the fencing is visible in the street it is not an overly prominent or dominant feature.

7. There are also mature trees to many of the properties that front Metchley Park Road and overall the surrounding area has a verdant and open character and appearance.
8. The appeal scheme proposes the addition of railings above the existing brick wall and installation of gates, set back behind the boundary wall, to both driveway entrances. The appeal site has a wide frontage and considering this, and the height and siting close to the back of the footpath, the railing and gates would be imposing features in the street scene, at odds with the prevailing character of the area.
9. Whilst I understand the gates and railings may have been specifically designed for the appeal site, they would still result in a more formal and enclosing boundary. The visual impact of the appeal scheme would not be comparable to existing landscaping to site frontages, as that retains the soft-landscaped character of the street.
10. The appeal scheme would be a prominent and incongruous addition, at odds with the established verdant, informal and open character of the street. It would therefore result in unacceptable harm to the character and appearance of the site and surrounding area. Therefore, for the reasons stated the development would be contrary to Policy PG3 of the Birmingham Development Plan, 2017 (BDP) and saved paragraphs 3.14C-D of the Birmingham Unitary Development Plan, 2005 which seek to ensure that all developments achieve a high-quality design and reinforce local distinctiveness. For the same reasons the development would be contrary to the high-quality design requirements of the Supplementary Planning Guidance, Places for Living, 2001 (SPG) and the National Planning Policy Framework (the Framework).
11. I note that Policies within the BDP, the SPG and the Framework emphasise the need to create safe environments. However, they are also clear that developments must achieve a high-quality design and respond to local context and distinctiveness.
12. There is little evidence before me to demonstrate that the installation of gates and railings as per the appeal scheme would be the only way to achieve a safe environment. Therefore, whilst I have taken this into account, and had regard to the appellant's security related concerns and reasons for seeking the proposed boundary treatment, I do not consider any benefits of the proposal would be sufficient to outweigh the harm I have identified above.
13. The appellant has drawn my attention to other sites in the vicinity, and I saw on my site visit that there are examples of other boundary treatment in the wider area. However, I also saw that there are distinct differences in the character and appearance of these other roads.
14. Hintlesham Avenue retains an open and verdant character, and whilst other roads in the vicinity such as Somerset Road, Richmond Hill Road and Barlows Road also have a verdant character, these are busier roads where there is more variation in boundary treatment and visually, built development is more dominant within the street scene.
15. Therefore, whilst I have considered the detail of the examples submitted there are none which appear to be directly comparable to the appeal site when considering siting and design. Furthermore, I do not know the full

circumstances of those schemes, and in any event each case must be considered on its own merits. These other sites do not therefore lead me to a different conclusion.

Other Matters

16. It is acknowledged that the neighbour objection submitted to the original planning application related to highway matters only and the Council raised no concerns in this regard. In addition, I note the appellant has submitted details which appear to show some local support for the proposals. However, this does not lead me to a different conclusion.
17. I have considered the rights of the appellant under Article 1 of the First Protocol and Articles 5 and 8 of the Human Rights Act 1998. Article 1 of the first Protocol states that every person is entitled to the peaceful enjoyment of their home. Article 8 affords the right to respect for private and family life. Dismissal of the appeal would interfere under both Article 1 of the first Protocol and Article 8. However, these are qualified rights and any interference may be justified where it is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality. I am satisfied that the legitimate planning policy aims to protect the character and appearance of the street scene and local area can only be adequately safeguarded by a refusal of permission.
18. I acknowledge that the consequence of dismissing the appeal would be that the appellant's options in securing their property would be restricted. However, the harm I have identified to the character and appearance of the area is such that dismissal of the appeal would be a proportionate and necessary response that would not violate the appellant's rights under Article 1 of the first Protocol or Article 8. The protection of the public interest cannot be achieved by means that are less interfering of his rights.
19. With regards to Article 5 this states that everyone has the right to liberty and security of person though its focus is on protecting individuals' freedom from unreasonable detention as opposed to protecting personal safety. I therefore do not consider this argument to be well-founded because the dismissal of the appeal would not give rise to a violation of these rights. These other matters do not, therefore, lead me to a different conclusion.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

A Denby

INSPECTOR