



Appeal Decision

Site visit made on 25 February 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2020

Appeal Ref: APP/P4605/W/19/3242591

Rear of 200, 204 and 206 Jiggins Lane, Birmingham B32 3ER

- 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 Paul Sutton – Sutton Rentals and Developments Ltd against the decision of Birmingham City Council.
 - The application Ref 2019/06435/PA, dated 29 July 2019, was refused by notice dated 8 October 2019.
 - The development proposed is two new detached dwellings and associated car parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An amended plan (Drawing No 11 Rev A) has been provided with the appellant's appeal submission. The plan includes an alteration to the measurement between the rear elevation of 'House 2' and neighbouring dwellings and the relocation of a kitchen window on 'House 1'. Given the late stage at which this drawing has been provided and being mindful of the 'Wheatcroft Principles', I consider that acceptance of this plan would deprive those who should have been consulted from an opportunity to comment. I have therefore considered the appeal on the basis of the layout drawing that was before the Council when they determined the planning application.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide suitable living conditions for future occupants with particular regard to outlook, light and private outdoor space; and
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to outlook, light and privacy.

Reasons

Character and appearance

4. Located within a predominantly residential area, the site includes 2 distinct parcels of land currently forming part of the rear gardens of dwellings on

Jiggins Lane. There are a mix of house types and architectural styles in the area. These include the two-storey semi-detached properties on Jiggins Lane, which back on to the appeal site, and a bungalow at No 15 Modbury Avenue which is situated on the opposite side of the road. Whilst there are also examples of other house types further from the appeal site on Modbury Avenue, the prevailing character of the area is housing generally set within generous plots with front and rear gardens.

5. The proposed dwellings and associated curtilages would reduce the rear gardens at Nos 200, 204 and 206 by roughly half of their current depth. The dwellings would occupy the majority of the width of their plots and would have rear elevations sited close to their respective rear boundaries. As a result of these factors, the dwellings would appear cramped within their plots. The intervening garden serving No 202 would emphasise the piecemeal appearance of the development. Consequently, the development would be at odds with the otherwise broadly consistent and generous garden depths serving the dwellings to this section of Jiggins Lane. 'House 1' on the proposed drawings, would be a two-storey dwelling and would appear particularly contrived when viewed from surrounding properties by virtue of all main habitable first floor glazing being provided to the front elevation. The use of a similar material palette to that used in surrounding buildings would not overcome these fundamental design concerns.
6. The appellant suggests the removal of a section of the existing boundary fence on Modbury Avenue would improve the appearance of the street scene, with the development acting as a visual lead to the three terraced dwellings located at the end of the proposed access drive. However, the garden space behind the fence and visible mature planting are an established part of the street scene and form part of the general spaciousness to the rear of dwellings on Jiggins Lane. I am not persuaded that the proposals would result in benefits to the street scene sufficient to justify the deficiencies identified or the overall harm that would result to the pattern of development in the area.
7. To conclude, and for the reasons set out, the development would have a harmful effect on the character and appearance of the area. The development would conflict with Policies PG3 (Place Making) and TP27 (Sustainable Neighbourhoods) of the Birmingham Development Plan (2017) (DP) and saved paragraph 3.14D (Good Urban Design Principles) of the Birmingham Unitary Development Plan (2005) (UDP) which amongst other things require that new development responds to the local area context, is of high design quality and that particular regard will be given towards the impact that a development would have on the local character of an area including street patterns, scale and massing.
8. The development would also be contrary to 127 of the National Planning Policy Framework (the Framework) which amongst other things requires that development adds to the overall quality of an area and is sympathetic to local character including the surrounding built environment.
9. In reaching this conclusion I have also given regard to The Birmingham City Council "Places for Living" Supplementary Planning Guidance (2001) (SPG) which amongst other things encourages good quality accommodation in an attractive environment.

Living conditions for occupants of the proposed dwellings

10. The SPG sets out that the minimum garden size for family accommodation is 70 square metres (sq m). Both of the proposed dwellings would have external space exceeding this figure. However, the figures in the SPG are guidance and the SPG also includes, amongst other things, that it is important for residents to enjoy rear privacy to safeguard their amenity and allow their private space to be useable. Assessment of the quality of outdoor private space cannot therefore be made solely on the basis of a measurement.
11. In both cases the majority of garden space would be located to the front of the respective sites. In the case of 'House 1', the garden would be close to the boundary with Modbury Avenue. Even if the position of this space would provide suitable levels of daylight and a substantial boundary treatment could be erected, it is likely that activity between the street and the garden would be appreciable and the privacy of occupants using this space would therefore be likely to be compromised. The garden serving 'House 2' would be set further away from the adopted highway on Modbury Avenue, although residents of the three terraced dwellings at the end of the private drive would pass on foot or by vehicle in close proximity to this space. Overall, the garden spaces would not be in the optimum position to ensure suitable levels of privacy would be provided for future occupants.
12. The windows serving the dining and kitchen areas for 'House 1' and the dining area in 'House 2' would be located on the rear elevations of the respective dwellings and are shown to be obscure glazed. These windows would also be in close proximity to boundary treatments. Consequently, the means of outlook and light for occupants of the dwellings would be severely compromised. Even if I were in a position to consider the revised plan, the relocation of the kitchen window on 'House 1' to the side elevation facing the private drive could allow for passers-by on the private drive to look towards this window. This would potentially have a material impact on the privacy of future occupants. A condition requiring any of the other rear facing windows to be clear glazed or relocated to the side elevations of the dwellings would also be ineffective as windows would still face boundary treatments at close proximity.
13. The appellant suggests that windows have been located to southerly facing elevations to maximise sunlight and to provide outlook on to the proposed gardens. However, this does not persuade me that the overall design of the dwellings would provide suitable living conditions for future occupants. Furthermore, given the combined width of the open plan sitting area, dining area and kitchen; the patio doors on 'House 1' would not compensate for the limited overall levels of outlook and light that would be provided to this room.
14. To conclude, the development would not provide suitable living conditions for occupants of the proposed dwellings with particular regard to outlook, light and provision of private outdoor space. Consequently in that regard, the development would conflict with Policies PG3 (Place Making) and TP27 (Sustainable Neighbourhoods) of the DP and saved paragraph 3.14C of the UDP which amongst other things require that new development is of a high design quality, ensures that private external spaces are functional and that development should have regard to the development guidelines in the "Places for Living" SPG.

15. The proposal would also conflict with paragraph 127 of the Framework which amongst other things states that development should function well and create places that have a high standard of amenity for existing and future users.

Living conditions for neighbouring occupants

16. Whilst 'House 2' would fall short of the minimum interface distance of 12.5m set out in the SPG, it would be located at a lower level to the dwellings at Nos 204 and 206. This would combine with the distance retained to rear facing windows to provide suitable levels of light and outlook from internal space within these neighbouring dwellings.
17. However, 'House 2' would have a substantial pitched roof to its rear elevation. Given the close proximity of the dwelling to the proposed rear boundary with Nos 204 and 206, it would be imposing when appreciated from within the reduced rear gardens serving these neighbouring properties. As a result, the development would have a material impact on the quality of outlook and light experienced within neighbouring garden space. This remains the case even if I were in a position to base my decision on the revised plan provided.
18. The roof light windows in the rear facing roof slope facing towards the rear garden serving No 202 Jiggins Lane would be in a relatively low position within the roof slope. The lower window would serve a study / store and has the potential to result in an overlooking impact on the neighbouring garden. Given the window would not serve a main habitable room, a condition could be attached requiring the window to be non-opening and obscure glazed. Even so, these windows and the obscure glazed bathroom window on the rear elevation would still result in a perception of being overlooked for occupants of No 202. The level of harm would be unlikely to warrant dismissal of the appeal on its own. However, it compounds the harm already identified.
19. To conclude, and for the reasons set out, the development would have a harmful effect on the living conditions of neighbouring occupiers. Consequently, in that regard, the development would conflict with Policies PG3 (Place Making) and TP27 (Sustainable Neighbourhoods) of the DP and saved paragraph 3.14C of the UDP and the Framework.

Other Matters

20. The appellant suggests the development would result in an efficient use of land, improve natural surveillance in the area and add to the housing mix. Any perceived benefits in these regards would be limited and I am not persuaded these considerations outweigh the level of harm identified under the main issues.

Conclusion

21. For the reasons set out, the appeal should be dismissed.

M Russell

INSPECTOR