



Appeal Decision

Site visit made on 3rd June 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Appeal Ref: APP/P4605/W/20/3244767

20 Tudor Hill, Sutton Coldfield B73 6BH

- 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 Shaw against Birmingham City Council.
 - The application Ref 2019/06409/PA, is dated 25 July 2019.
 - The development proposed is the erection of a Coach House adjacent to the main house, sub-divided into 2 self contained duplex flats.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a Coach House adjacent to the main house, sub-divided into 2 self contained duplex flats at 20 Tudor Hill, Sutton Coldfield B73 6BH in accordance with the terms of the application, Ref 2019/06409/PA, dated 25 July 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The application form does not include a house number for the property, but I was able to observe at my site visit that it is 20 Tudor Hill, which corresponds with the number stated on other appeal documentation.
3. There has been discussion between the appellant and the Council as to the full extent of the description of the development, however both parties are now in agreement that it should refer only to that set out on the application form. I have therefore used that description in the banner header above.
4. The appellant has provided an amended elevation plan (TS/10 Rev G) which addresses a previous discrepancy between the floor and elevation plans that were submitted. This confirms that the proposed development would be sited closer to the existing property at the appeal site, and therefore further from the common boundary with 22 Tudor Hill, than was shown on the original elevation plan. I am satisfied that this does not prejudice the interests of any party that may be affected by the appeal proposal, and therefore I will make my assessment of the appeal on the basis of plan TS/10 Rev G.
5. Both the Council and Appellant have made reference to a planning permission granted in 2017 (ref.2017/06119/PA) which also allows for the construction of a coach house to the side of the existing property on the appeal site. This extant permission is a viable fallback position and I have had regard to it in reaching my decision.

Main Issue

6. The appeal is against a failure to determine the planning application, however the Council has indicated that the application would have been refused on the basis of the effect of the proposed development upon the character and appearance of the area and the locally listed buildings. This therefore forms the main issue in the consideration of the appeal.

Reasons

7. The proposed development would be sited to the side of the existing property at 20 Tudor Hill, a dwellinghouse of substantial scale which has approval to be converted into flats. It is locally listed and is therefore a non-designated heritage asset. The Council states that the significance of the asset lies in its grand scale, age, architectural detail and location, including its set back from the road within a spacious landscaped plot. Furthermore, it also has group value as one of a row of five dwellings with similar characteristics situated on this side of Tudor Hill. From my own observations, this represents a comprehensive and detailed assessment of the significance of the non-designated heritage asset.
8. The appeal proposal shares much in common with the extant planning permission that was approved under 2017/06119/PA. The extant planning permission defines the scope of the development that the Council considered to be acceptable and I find no reason to disagree with their overall findings on that scheme, which are set out in the respective delegated report that has been provided with the appeal. Although the Council did not determine the appeal planning application, they have set out their areas of key concern in their appeal statement, which fundamentally relate to design differences between the two schemes, and the resulting impact upon the character and appearance of the area and the locally listed buildings that they consider would arise. Again, I find no reason to disagree with the Council that this is the main issue that requires consideration in this appeal.
9. The main area of concern raised by the Council is that the changes proposed to the coach house would alter its character and reduce its subservient relationship to the existing property, in turn harming the significance of the locally listed building and eroding both its status as the primary feature of the site and the space around it. Key to this is the proposed presence of the bay window to its frontage, as opposed to the archway and glazing arrangement that was approved under the previous permission. There are other differences between the appeal proposal and the extant permission in that the coach house would be marginally higher and closer to the existing property at No 20. However, the differences involved in both of these respects are so small that they would not be readily perceptible and they would not have a harmful impact on the visual relationship between the proposal and the existing property.
10. Whilst the bay window does have some impact upon the character and appearance of the proposed development, the relationship between the proposal and the existing property, and the resulting issue of subservience, is primarily formed by the relative positioning of the two buildings, their widths and their heights. These would not be materially changed as a result of the appeal proposal when compared to that approved under 2017/06199/PA. Bay windows are common features in the vicinity of the site, in particular on the

five buildings which form part of the locally listed row and in this regard the inclusion of one on the frontage of the proposed development would be in keeping with the prevailing character and appearance of the area. Therefore, the proposed development would not cause harm to the character and appearance of the area or to the significance of the locally listed buildings which it would be positioned adjacent to.

11. The Council has also highlighted the cumulative impact that they consider has arisen from permissions previously granted at the site, and that these have already eroded the significance of the locally listed building. Reference is included in this to the extant permission for the coach house, in terms of the sense of space to the side of the original property being reduced. However, the presence of an unsympathetic two storey side extension and a detached garage already reduce the sense of space to this side of the original property. In the context of both the existing situation and the extant permission for the coach house, the appeal proposal would not result in any substantial loss of space to this side of the property.
12. For these reasons, I conclude that the proposal would not cause harm to the character and appearance of the area as a result of its scale and design or its relationship to the existing property at the appeal site. There would also be no harm to the significance of the locally listed building or the row of locally listed properties of which the appeal property is part. Accordingly, the proposal would not conflict with Policies PG3, TP12 and TP28 of the Birmingham Development Plan 2017 or with the aims of the Mature Suburbs Supplementary Planning Document 2008. There would also be no conflict with the objectives of the National Planning Policy Framework where they refer to achieving well designed places and non-designated heritage assets.

Other Matters

13. Objections have been made by interested parties on the grounds that the previously approved four bedroom dwelling would be more in keeping than the appeal proposal for two flats. However, the fact that there would be two flats would not result in visual harm, or to any other harm to the locality in general, in particular as the subdivision of the original property has already been permitted. Reference is also made to refuse storage but details of the location of this are shown on the plan submitted, and the Council are content that it would adequately serve the requirements of the proposed development.
14. Concerns have been raised about parking, however there is no objection from the Highway Authority to the number of parking spaces proposed and furthermore the site is located in close proximity to the town centre meaning that alternative modes of transport are readily available. Therefore, I have no reason to conclude that the proposed parking provision would be insufficient to meet the requirements of the development.

Conditions

15. The Council has provided a list of suggested conditions should the appeal be allowed. However, many of these refer back to details that were approved under a discharge of condition application relating to the extant permission. I do not have these details before me and I am unable to impose conditions which tie back to, and therefore in effect approve, details which I have not seen. It is therefore necessary to reimpose the conditions in full and in order to

ensure consistency with the Council's aims, I have taken reference from the wording of the conditions imposed on the extant permission, where the same condition is required, but have made amendments where necessary in the interests of precision.

16. Conditions requiring commencement of development within 3 years and confirming the approved plans are required to provide certainty. Conditions addressing external facing materials, window frames, refuse storage, hard and soft landscaping and boundary treatments are required to ensure that the proposed development has a satisfactory visual appearance. Conditions relating to pedestrian visibility at the site entrances and parking are necessary to ensure that appropriate highway standards are met. I also impose a condition requiring that the cycle shelter shown on the submitted plan is provided before occupation of the development, in the interests of providing facilities for this mode of travel.
17. Although no specific details with respect to ecological matters have been provided in relation to the appeal proposal, the delegated report for the extant permission confirms why such conditions are required with respect to bats. I therefore too impose them, but only with regard to the proposed development before me and not the existing property. As no evidence has been provided that measures for birds are required, it is not reasonable or necessary to impose a requirement in that regard. The plans submitted clearly show the proposed ground level at which the development would be constructed, and this is acceptable in relation to the existing built development on and adjacent to the appeal site. The comments of Severn Trent Water have been provided, and they do not request that a drainage condition be imposed. There is therefore no justification for imposing levels or drainage conditions.
18. As the proposal is for flats and not dwellinghouses, the development would not benefit from the permitted development rights to which the Council have referred, and therefore such a condition removing these is not necessary. The existing driveway is of an appropriate gradient and this matter does not require control by a planning condition. Although a noise insulation condition has been suggested by the Council, I have not been provided with any information to explain why it is required. The proposed development would be a standalone, new building, located within a residential area and set well back from the public highway. I therefore have no reason before me to suggest that noise insulation beyond that set out by the Building Regulations would be justified.
19. The Council has raised matters relating to living conditions which refer to first floor windows in both of the side elevations of the proposed development. With regard to the circular window which faces towards the boundary with No 22, this window would not allow overlooking into any windows on the adjacent property. Due to its positioning on the side elevation, and its size and shape, it would also not result in harm to the living conditions of the occupiers of No 22 by reason of overlooking onto the private external areas of that property, such as the rear garden. The Council's suggested condition requiring this window to be obscurely glazed and fixed is not therefore necessary.
20. The two bathroom windows on the other side elevation facing the existing property at 20 Tudor Hill could potentially allow some overlooking into the rear garden area of the existing property and also between its windows. It is therefore reasonable to require that they be obscurely glazed, and them taking

this form would not cause detriment to the rooms in question, given the purpose they would serve. However, their relationship to the existing property does not in this instance necessitate a restriction on their method of opening.

Conclusion

21. For the reasons given above, I conclude that the appeal, subject to conditions, should be allowed.

Graham Wright

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TS/09 Rev I and TS/10 Rev G.
- 3) No above ground construction works shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No above ground construction works shall take place until detailed drawings of the proposed window frames, illustrating materials and coverings, paint finish, fenestration profiles, lintels, cills, window dressings, cheeks, reveal and window furniture, have been submitted to and approved in writing by the local planning authority. The windows shall be constructed and installed in accordance with the approved details and shall be retained as such thereafter.
- 5) No above ground construction works shall take place until details of the number, design, location and post-development monitoring arrangements of bat boxes to be provided as part of the development hereby permitted, have been submitted to and approved in writing by the local planning authority. The bat boxes shall be installed in accordance with the approved details prior to the first occupation of the development and shall be retained as such thereafter.
- 6) No external lighting shall be installed as part of the development hereby permitted until full details of such lighting have been submitted to and approved in writing by the local planning authority. All external lighting works shall thereafter be implemented in accordance with the approved details.
- 7) Demolition of the roof of the existing garage on the site shall be carried out in accordance with the following methodology: all roof tiles to be removed by hand under the supervision of a licenced ecologist.
- 8) Prior to the first occupation of the development hereby permitted details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;
 - ii) hard surfacing materials;

- iii) refuse storage facilities;
- iv) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities.
- v) an implementation programme.

The approved landscaping works shall be carried out in accordance with the agreed implementation programme. Any trees or plants which within a period of 2 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 9) The development hereby permitted shall not be occupied until the two bathroom windows at first floor level on the side elevation facing 20 Tudor Hill have been fitted with obscured glazing (which shall have an obscurity rating of not less than 4 in the Pilkington Glass Range or an equivalent obscurity rating). The windows shall be retained as such thereafter.
- 10) The development hereby permitted shall not be occupied until the vehicle parking area shown on drawing no. TS/09 Rev I has been constructed, surfaced and marked-out in accordance with details that have first been submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any purpose other than for the parking, loading and unloading of vehicles. The details submitted shall include details of the allocation of the parking spaces on the site.
- 11) Pedestrian visibility splays of no less than 2 metres by 2 metres shall be incorporated at each access point onto Tudor Hill before the accesses are first brought into use and shall be retained as such thereafter. No structure, shrubs, trees or other vegetation above 0.6 metres in height shall be placed or allowed to grow within the visibility splays.
- 12) The development hereby permitted shall not be occupied until the cycle shelter shown on drawing no. TS/09 Rev I has been provided on the site and the shelter shall be retained as such thereafter.