



Appeal Decision

Site visit made on 29 June 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Appeal Ref: APP/P4605/W/19/3243127

Land to the rear of 2-22 Clarence Road, Four Oaks, Sutton Coldfield B74 4AE

- 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 G Hale on behalf of Firstpost Homes against the decision of Birmingham City Council.
 - The application Ref 2018/06656/PA, dated 9 August 2018, was refused by notice dated 21 October 2019.
 - The development proposed is demolition of existing buildings; erection of 3no. dwellinghouses and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings; erection of 3no. dwellinghouses and associated works, at Land to the rear of 2-22 Clarence Road, Four Oaks, Sutton Coldfield B74 4AE, in accordance with application ref: 2018/06656/PA, dated 9 August 2018 and subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr G Hale on behalf of Firstpost Homes against Birmingham City Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

4. The appeal site is a broadly rectangular parcel of land, albeit with a small easterly projection. It is located to the rear of the gardens which serve a consistent line of two storey dwellings which front onto this section of Clarence Road. The south west boundary of the site hosts a number of large trees and due to a noticeable drop in land levels between Clarence Road and the appeal site itself, the site is located at an appreciably lower level than the houses which front the main road. It is accessed via an existing access lane that is heavily landscaped on its south eastern boundary which it shares with a public footpath.

5. The site currently hosts a series of dilapidated and redundant utilitarian buildings. However, these are low in height and are of a limited scale. Due to the combination of the location of the site, the depth of the established rear gardens, the drop in land levels, and the low-key nature of the existing built form, the site represents a relatively discreet parcel of land that is not readily appreciated from within the public realm.
6. The proposal would introduce three dwellings onto the site. They would be detached, two storey properties which would have generous footprints. In this respect, they would differ from the broadly consistent form and layout of the existing properties which front onto Clarence Road. However, the buildings would be set with space about them with private parking, garaging and amenity space. Due to the space about the buildings, the proposed layout would not appear cramped on site. Furthermore, due to the combination of the land levels, the distance from the road, and the presence and retention of mature landscaping, the proposed dwellings would remain discreet when viewed from the public realm. In this respect, they would remain subordinate to the frontage development and accordingly, I am satisfied that they would not represent an incongruous addition to the locality, or that they would appear out of character with the surrounding context.
7. The proposal would seek to remove much of the landscaping which helps to form the south eastern boundary of the access road and replace it with railings. In its current form, this boundary consists of dense vegetation that contributes in a positive manner to the pleasant suburban surroundings. As a consequence, the wholesale removal of landscaping and the introduction of railings, however traditional, would have a harmful effect on the character and appearance of the area. Despite this, I note that the appellant would be willing to accept a condition to resolve the treatment of this boundary. As confirmed within the Planning Practice Guidance, planning conditions can be used to make unacceptable development acceptable. Accordingly, I see no reason why a condition to control the boundary enclosure should not be used to enable the development to proceed.
8. Subject to such a condition, for the reasons identified above, I conclude that the proposal would not harm the character and appearance of the area. It would therefore comply with Policy PG3 of the Birmingham Development Plan (2017) and saved Paragraphs 3.14C-D of the Birmingham Unitary Development Plan (2005) as well as guidance contained within the Places for Living Supplementary Planning Guidance, and Mature Suburbs Supplementary Planning Document. Taken together, these seek amongst other things, high quality design which responds to site conditions.

Other Matters and Conditions

9. Due to the separation distances between the proposed dwellings and the adjacent houses, I am satisfied that the proposal would not harm the privacy of the existing occupants. I also note the comments in relation to construction noise, potential damage to property and the safety of school children. However, I am satisfied that these matters can be controlled through the use of suitably worded conditions, as identified below. Conditions can also be used to ensure suitable tree planting and protection.
10. In relation to refuse trucks and traffic generation, I have no compelling evidence before me to suggest that these matters should result in permission

being withheld. I note that the Council raised no objection to the proposal in relation to these points and on the basis of the information before me, I have no reason to take an alternative view.

11. Due to my findings set out above, conditions are necessary in the interests of precision to establish the time limit for commencing development, as well as to set out the approved drawing numbers. Due to the previous use of the site, conditions 3 and 4 are necessary to ensure that any contaminated land is suitably dealt with. Furthermore, condition 5 is necessary to ensure ecological requirements are met.
12. Conditions 6, 7 and 8 are necessary to ensure that suitable landscaping is provided for the proposed development, and to ensure that boundary treatments, including those next to the vehicular access, are appropriate for their context. Condition 9 is necessary to ensure that appropriate lighting is provided for the development.
13. As identified above, condition 10 is necessary to control construction so as to not compromise living conditions for adjacent residents, and condition 11 is necessary to ensure the materials used for the development are appropriate for their context. Condition 12 is necessary due to the surrounding topography and condition 13 is necessary in the interests of highway and pedestrian safety. Finally, condition 14 is necessary to ensure that retained trees are suitably protected.
14. Where conditions require details to be resolved prior to the commencement of development, the appellant has confirmed their acceptance of this approach.

Conclusion

15. For the reasons identified above, the appeal is allowed and planning permission is granted.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers CR.PL. 01C, 03A, 04A, 05A, 06A & 09.
- 3) No development shall take place until the following components of a site assessment and, if required remediation scheme to deal with the risks associated with contamination of the site for the intended use has been submitted to and approved, in writing, by the Local Planning Authority:
 - 1) A preliminary risk assessment, which has identified:
 - o all previous uses
 - o potential contaminants associated with those uses
 - o a conceptual model of the site indicating sources, pathways and receptors
 - o potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation scheme, based on (1) to provide information for a detailed risk assessment of the risk to all receptors that may be affected, including those off site.
 - 3) If contamination is found present and assessed as an unacceptable risk to human health safety and the environment an options appraisal and remediation strategy shall be submitted giving full details of the remediation measures required and how they are to be undertaken, timetable of works and site management procedures.
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved and must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 (and subsequent legislation) in relation to the intended use of the land after remediation.
- 4) Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
- 5) An Ecological Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority prior to occupation. The development shall thereafter be implemented in accordance with the approved details.

- 6) Details of hard and/or soft landscape works shall be submitted to and approved in writing by the Local Planning Authority prior to occupation and these works shall be carried out as approved. These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials, minor artefacts and structures, proposed and existing functional services above and below ground, fully annotated planting plans to a scale of 1:100, showing, where used, locations of individually planted trees, areas of woodland, shrubs, hedges, bulbs, and areas of grass. Within ornamental planting areas, plans should be sufficiently detailed to show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include planting schedules, noting species, plant sizes and proposed numbers / densities and details of the proposed planting implementation programme. All hard and/or soft landscape works shall be implemented in accordance with the approved details. The works shall be implemented prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority and thereafter maintained. Any trees or shrubs which, within a period of two years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.
- 7) Details of the materials to be used for hard and paved surfacing shall be submitted to and approved in writing by the Local Planning Authority prior to their use. The development shall be implemented in accordance with the approved details and thereafter maintained.
- 8) Details of the proposed boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. These details shall include plans showing the locations of existing, retained and proposed new boundary treatments and scaled drawings indicating the positions, height, design, materials, type and colour of proposed new boundary treatments. The approved scheme shall be implemented before occupation of the building(s)/use/dwelling (s) hereby permitted and shall be retained thereafter.
- 9) The development hereby approved shall not be occupied until a detailed lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The detailed lighting scheme shall include site annotated plans showing lighting positions for the external spaces, facades, building elevations and structures they illuminate, site plans showing horizontal and vertical overspill to include light trespass and source intensity, affecting surrounding residential premises and details of the lighting fittings including: colour, watts and periods of illumination. All lighting works shall be implemented in accordance with the approved details and shall be completed prior to the occupation of any part of the development and thereafter maintained.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved statement shall be

adhered to throughout the construction period. The method statement shall provide for details of the following:

- * the parking of vehicles of site operatives and visitors
- * location of loading and unloading of plant and materials
- * hours of demolition/construction/delivery

The development shall be implemented in accordance with the approved details.

- 11) Samples of the materials to be used in the construction of the external surfaces of the extension(s)/building(s)/dwelling(s)/development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to their use. The development shall be implemented in accordance with the approved details.
- 12) No development shall take place (excluding demolition) until details of finished site and ground floor levels in relation to the existing site levels, adjoining land and buildings have been submitted to and approved in writing by the Local Planning Authority. The details shall include the proposed grading and mounding of land areas, cross sections through the site and relationship with the adjoining landform and buildings. The development shall be implemented in accordance with the approved details.
- 13) A pedestrian visibility splay of 2 metres by 2 metres by 0.6 metres shall be incorporated at the/each access point before the access point(s) is first used and thereafter maintained.
- 14) No development shall take place until a site specific arboricultural method statement (AMS) and a tree protection plan (TPP), in accordance with British Standard 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012 and any subsequent edition), has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken and maintained in accordance with the approved details.

-