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## Appeal Decision

Site visit made on 18 August 2020 by S Watson BA(Hons) MSc MRTPI

**Decision by Elizabeth Jones BSc (Hons) MTCP MRTPI**

**An Inspector appointed by the Secretary of State**

**Decision date: 5 October 2020**

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**Appeal Ref: APP/P4605/W/20/3254305**

**Land to the rear of 32 Holly Lane, Erdington, Birmingham B24 9JS**

- 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 M McDermott against the decision of Birmingham City Council.
  - The application Ref 2019/10028/PA, dated 29 November 2019, was refused by notice dated 23 April 2020.
  - The development proposed is the erection of 3no. age restricted retirement bungalows, with associated access, parking and landscaping.
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### Decision

1. The appeal is allowed, and planning permission is granted for the erection of 3no. age restricted retirement bungalows, with associated access, parking and landscaping on land to the rear of 32 Holly Lane, Erdington, Birmingham B24 9JS in accordance with the application Ref 2019/10028/PA, dated 29 November 2019, subject to the conditions in the attached schedule.

### Appeal Procedure

2. The site visit was carried out by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues in this case are the effect of the proposal on the character and appearance of the surrounding area; and, the effect of the proposal on the living conditions of future occupiers, with particular regard to the size of the dwellings at plots 1 and 3 and the outlook from the dwelling at plot 2.

### Reasons for the recommendation

#### *Character and appearance*

4. The appeal site forms an area of land at the rear of properties along Holly Lane and Orphanage Road, with the access to the site off Holly Lane. The site is made up of the rear gardens of a number of surrounding properties and the block of retirement apartments which is currently under construction and to which the development would be associated. The proposal before me includes the erection of three bungalows with associated landscaping and parking.
5. The three bungalows would be set out around a central communal area with shallow private gardens that wrap around the rear sides of the properties. As

- such they would bear little resemblance to the grain of development, or appearance of the buildings, within the wider area, which is primarily characterised by two-storey detached and semi-detached dwellings in a variety of architectural styles set within long, spacious plots.
6. However, as the appeal site is set back from both Holly Lane and Orphanage Road it is screened from public views by the properties on both streets, as well as the buildings at the front of the site. As a result, I find it unlikely that any meaningful view of the bungalows would be afforded along the access road and that their design and layout, including the small irregularly shaped gardens, would not be immediately legible from public views.
  7. Furthermore, due to their siting, detached from the road, and their use, in connection with the retirement apartments, the bungalows would be read as part of the retirement community, not the wider street scene. I also note from the policies before me, and the Council's case, that backland development is not unacceptable in principle. In light of the above I find the proposal to be discrete from the surrounding area and not harmful to its character or appearance. As such I find that there would be no unacceptable adverse impact on the surrounding area as a result of the proposal.
  8. Although the gardens of the surrounding properties would be reduced in size, they would remain as long linear plots thereby protecting the form of development of the surrounding area. Moreover, the reduced gardens would not be immediately visible from public views. As a result, the development would not have a material impact on the character or appearance of the street scene.
  9. Although not included in its reason for refusal, the Council considers that the width of the access point would be out of character with the spacious nature of the roads in the locality. Albeit the access road would serve the proposed dwellings and not just an ancillary parking area as previously approved, I find that it would not be so significantly different to that already approved, as to be unacceptable. Moreover, I note that the Highway Authority had no objection to the proposal.
  10. In conclusion, as a result of the siting of the development, detached from the street scene and public views, as well as its legible connection to the retirement apartments, the proposal would not harm the character and appearance of the surrounding area. The proposal would therefore comply with Policies PG3 and TP27 of the Birmingham Plan 2031: Birmingham Development Plan (BDP), and Policy 3.14c of the Birmingham Plan: Birmingham Unitary Development Plan (BUDP), which collectively expect development to deliver high quality design and a strong sense of place. The proposal would also comply with the high quality design guidance set out in the Mature Suburbs – guidelines to control residential intensification supplementary planning document, and Places for Living supplementary planning guidance (SPG), and Paragraph 127(b) of the National Planning Policy Framework (the Framework) which requires development to be visually attractive as a result of architecture, layout and landscaping.

#### *Living conditions*

11. Although the Council have referred to the *Technical Housing Standards – nationally described space standards* (THS), the policies before me do not

require development to comply with this standard. The standards are optional and where a Council wishes to use them, this must be justified within the relevant policy. In light of this the THS has not been material in my determination. Likewise, although the Council has brought to my attention the guidance within the SPG, the bedroom space requirements are for family accommodation. I find that the requirements of a family home would likely be larger than expected of a retirement property, and so I have given this matter only limited weight.

12. The three bungalows would be used as age restricted properties for persons of retirement age, it is therefore likely that occupiers would be either individuals or couples, but it is unlikely any would be family groups. Moreover, given that the bungalows are aimed at older individuals, it is likely a smaller property and garden would be more attractive to their needs and wants, including being easier to maintain. I find as such that the overall scale of the properties, including the bedroom floor space and the amenity space would be appropriate for the proposed occupiers.
13. The living room of the bungalow at plot 2 would be served by a window to the front elevation, and a pair of patio doors flanked by windows on the side elevation. The front window would look out across a parking area towards plot 1 at a relatively close distance. I find that the outlook from this window would be somewhat restricted as a result of vehicles parked in front of the window, and the side elevation of plot 1. However, given that plot 1 is a bungalow, open views of the sky would still be afforded. Moreover, the patio doors and windows on the side elevation of plot 2 would look out across the private garden area which would therefore be a more open and attractive outlook. Although front windows may usually be considered as primary windows, as the side patio doors and windows would be larger in this instance, I find it more appropriate to consider these to be the primary windows serving the living room.
14. I find that the proposed development would not significantly alter the privacy of the rear communal amenity space for the retirement apartments as to be unacceptable. Although vehicles and pedestrians would travel past the communal space to reach the proposed bungalows, there would likely only be a limited increase in journeys over that for the approved parking at the rear of the site. Moreover, the communal space would already effectively be public to other residents within the apartments, as the bungalows are related, and so there would be little difference in this regard.
15. In light of the above, I find the size of the dwellings at plots 1 and 3 and the outlook from the dwelling at plot 2 would result in the provision of a good level of living conditions for future occupiers. Therefore, the proposal would comply with Policies PG3 and TP27 of the BDP and Policy 3.14c of the BUDP which require development to provide a wide choice of housing sizes and types catering for all ages, and for private external spaces to be attractive and functional. The proposal would also comply with the guidance set out in SPG and Paragraph 127(f) of the Framework which, amongst other things, require a high level of amenity for existing and future occupiers.

## **Conditions**

16. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the Framework and the

Planning Practice Guidance. I have amended some of the suggested wording to reflect this advice.

17. In the interests of clarity, a condition is necessary requiring that the development is carried out in accordance with the approved plans. In the interests of the character and appearance of the appeal site, a condition is necessary to control the materials of the new bungalows, boundary treatments and hardstanding.
18. Given the small nature of the plots, and the close proximity of surrounding properties and gardens, a condition restricting permitted development rights to the bungalows is necessary in order to protect the living conditions of future and neighbouring occupiers. Moreover, for this reason, and in order for them to properly relate to the existing apartments, a condition would be necessary restricting the age of occupants. Although such a condition was not raised by the Council, one was suggested by the appellant. Given their connection I have taken the age for the condition from the approval<sup>1</sup> for the existing apartments.
19. A condition is necessary requiring the protection of the trees to be retained on site and those near the site, in the interests of their visual and ecological benefits. A condition is also necessary requiring a construction method statement in order to protect the living conditions of neighbouring occupiers, given the close nature of the surrounding residential properties.

### **Recommendation**

20. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be allowed.

*S Watson*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed.

*Elizabeth Jones*

INSPECTOR

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<sup>1</sup> 2017/10597/PA

## **SCHEDULE**

### **CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the approved plans listed: 18207\_PA-03-A, 18207\_PA-04-A, 18207\_PA-05-A , 18207\_PA-06-A, 18207\_PA-07-A and 18207\_PA-08-A.
- 3) The three dwellings hereby permitted shall be occupied only by persons of the age of 60 or above; or, persons living as part of a single household with such a person(s); or, persons who were living as part of a single household with such a person(s) who have since died.
- 4) No external surfaces shall be constructed until the materials to be used have first been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) No hard or paved surfacing shall be installed until details of the materials to be used have first been submitted to, and approved in writing by, the Local Planning authority. The development shall thereafter be carried out in accordance with the approved details and permanently maintained.
- 6) The boundary treatments shall not be erected until details have first been submitted to, and approved in writing by, the Local Planning Authority. The 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 dwellings hereby permitted and shall be retained thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order amending, revoking and/or re-enacting that order, with or without modification), no enlargement, improvement or other alteration of the hereby approved dwelling or their roofs shall be carried out.
- 8) 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 development shall thereafter be carried out in accordance with the approved statement. 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

- 9) For the duration of the construction phase, and until all equipment/machinery and surplus materials have been removed from the site, the following shall not be carried out within 1 metre of the furthest extent of the canopy of any tree(s) retained on the site, or tree(s) adjoining the site:
- Mixing of Concrete
  - Storage of oil, cement, bitumen or chemicals
  - The digging and/or laying of trenches or pipe runs for services or drains
  - Alterations to surface or ground levels