
Appeal Decision

Site visit made on 5 January 2021 by A J Sutton BA (Hons) DipTP MRTPI

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2021

Appeal Ref: APP/P4605/W/20/3260390

Rear of 188 Walsall Road, Four Oaks, Sutton Coldfield, West Midlands, B74 4RH.

- 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 Frank Howard against the decision of Birmingham City Council.
 - The application Ref 2020/04007/PA, dated 29 May 2020, was refused by notice dated 31 July 2020.
 - The development proposed is described as 'Conversion of existing garage and extension to create a dwelling.'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at rear of 188 Walsall Road, Four Oaks, Sutton Coldfield, West Midlands, B74 4RH, in accordance with the terms of application ref 2020/04007/PA, dated 29 May 2020, and subject to the schedule of conditions attached to this decision.

Appeal Procedure

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

Application for Costs

3. An application for costs was made by Mr Frank Howard against Birmingham City Council. This application is the subject of a separate Decision.

Preliminary matter

4. The application form describes the development as the conversion of existing garage and extension to create a garage. However, it is clear from the appellant's planning statement and the Council's decision notice that the proposal is for the demolition of the garage and the erection of a dwelling and the Council assessed the planning application on that basis. I have done the same with the appeal and used the description of development taken from the Council's decision notice and the appellant's appeal form in the decision.

Main Issue

5. The Council's decision notice cites inadequate private amenity space as a reason for refusing planning permission. However, the Council, in submitted evidence, state there was a miscalculation and it no longer considers this to be a reason for refusal in this case. Having viewed the evidence before me I see no reason to disagree. Although the majority of the garden space would be to the front of the dwelling, it would be enclosed to give privacy and meet the minimum space standards within the Places for Living Supplementary Planning Document 2001.
6. Therefore, the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons for Recommendation

7. The appeal property is in a well-established suburban setting which is characterised by generally detached dwellings set in spacious plots, with modest to sizable private gardens to the rear. Whilst the period and architectural style of surrounding properties is varied, the distinct plot form and grain of development has been substantially retained, and is reflected in more recent additions, contributing to the appeal of the area.
8. The proposal would replace the existing garage of No 188, which fronts Edge Hill Road, with a 1 ½ storey, dormer style detached two-bedroom dwelling.
9. The proposed style of the dwelling is not a matter of dispute with the Council in this case. The built form would not be dissimilar to other modestly sized dwellings on Edge Hill Road near the appeal site, in terms of height, footprint and appearance and therefore would not appear prominent or out of character in the street scene.
10. The dwelling would be set back from the road and would roughly align with the existing building line of the immediate area. Although it would substantially fill the small plot it would not appear cramped in the street scene due to the presence of the sub-station on the east boundary, and, the garden space which would be retained at No 188. It would therefore not alter the existing spatial composition of the suburb when viewed from the public realm. Nor would it significantly change the density of development on this part of Edge Hill Road given the magnitude and position of the proposal.
11. The plot size and layout would be untypical of this part of the mature suburb and would interrupt the urban grain in this respect when observed from immediate surrounding properties. However, even though the dwelling would be set close to the rear boundary, its low eaves level and sloping roof away from the boundary means it would not appear as an imposing feature. Furthermore, the lengthy rear gardens of properties on Walsall Road would ensure that the open spacious character would be retained. Therefore, by virtue of the scale and form of the development it would not substantially erode any positive features and would not materially change the character of this part of the residential area.
12. For the reasons above, I conclude that the proposed development would therefore not materially harm the character and appearance of the area. There would therefore be no conflict with Policies PG3 and TP27 of the Birmingham Development Plan 2017 (BDP) and saved Paragraph 3.14D of the Birmingham

Unitary Development Plan 2005, which collectively requires that all new development will be expected to demonstrate a high design quality contributing to a strong sense of place.

13. The proposal would generally conform with guidance set out in Places for Living Supplementary Planning Guidance 2001 and Mature Suburbs - Guidelines to Control Residential Intensification Supplementary Planning Document 2008 which collectively ensure that the distinct characters are not harmed when new development takes place.
14. For the reasons outlined, it would not comprise an inappropriate development in a residential garden and would therefore not conflict with policies of the National Planning Policy Framework (Framework) with regards this matter. It would be consistent with other policies of the Framework which seek to boost the supply of housing, well-designed places and to make effective use of land.

Other Matters

15. The development would result in a larger structure at the boundary of the rear garden of No 186. However, given the design of the development, incorporating a sloping roof away from the boundary, the outlook for occupants of No 186 from rear windows of the property would be relatively unchanged, and would continue to be that of residential development which currently surrounds the property. The development would be some distance from the rear rooms of the property and a gap would be retained along the boundary of the large rear garden at No 186. As such the development would not appear overbearing when viewed from the rear rooms of No 186 or from its rear garden. Furthermore, the proposed dwelling would have a limited number of windows to the rear and would have only rooflights serving the first floor which would prevent overlooking from this aspect. Therefore, the development would not result in harmful effects on the living conditions of occupants of No 186 with regards outlook or loss of privacy.
16. The proposed development would be located near to No 190. However, its position would not afford direct views into habitable rooms of that property. Furthermore, it would be on the opposite side of the road, and there would be sufficient distance between the properties to ensure the development would not result in a material loss of privacy for occupiers of No 190 when they use habitable rooms. As such any sense of being overlooked would not be increased beyond that which would be reasonably expected in such a suburban setting.
17. I have had regard to the similarities between this proposal and that subject of a recent appeal decision at the appeal site¹. The Inspector in that case concluded that the development would not be harmful in respect to layout but would, by virtue of its appearance, be out of character with the area. Consistent with this conclusion and based on the evidence before me, I also find that in this case the layout of the development would not be harmful.

Conditions

18. The Council has suggested a number of conditions to which I have had regard in reaching this recommendation.

¹ Ref APP/P4605/W/19/3239697

19. Carrying out the development in accordance with approved plans and approval of external surfaces and hard and soft landscaping and boundary treatment are considered necessary in the interest of certainty and the character and appearance of the area.
20. The appellant has agreed to pre-commencement conditions requiring approval of a construction method statement, noise and details relating to land contamination. These need to be pre-commencement to appropriately protect the living conditions of neighbouring residents and future occupants of the dwelling and in the interest of the environment. From the Council's application report, it seems the concern regarding noise relates to the proposed bedroom, particularly at night. Therefore, the condition has been worded accordingly.
21. Retention of visibility at the site access is necessary to ensure safe movement of pedestrians.
22. Planning Practice Guidance advises that clear justification is required when attaching conditions that remove national permitted development rights. Given the size of the plot, limited garden space and proximity to the private rear garden of No 198 I find it reasonable and necessary in this case to remove permitted development rights in respect of future extensions, including alterations to the roof, in the interest of the living conditions of occupants of the dwelling and the neighbouring property. I have amended the suggested condition so it is more precise.
23. I do not however find any compelling reason for the removal of permitted development rights in respect to windows in this case. The proposed design limits the scope for additional windows which may cause harm to occupants of neighbouring properties and therefore such a condition would neither be justified or necessary.
24. The requirements of the Council's suggested condition regarding hard landscaping are incorporated within the general landscaping condition and therefore a separate condition would not be necessary.

Conclusion and Recommendation

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

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

26. I have considered all the submitted evidence and concur that the appeal should be allowed.

Zoe Raygen

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: Location and Block Plan Drawing No 20.19.1 and Proposal Drawing No 20.19.3.
- 3) The development shall not progress beyond the base course until the materials to be used in the construction of the external surfaces of the dwelling 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 and maintained thereafter.
- 4) No development hereby permitted 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 Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials; and
 - iii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall commence (excluding demolition) until a noise assessment has been submitted to and approved in writing by the Local Planning Authority which demonstrates that noise and vibration levels for facades containing habitable rooms of the dwelling hereby permitted, do not exceed the criteria provided in the current EPU Planning Consultation Guidance Note 1 (Noise and Vibration) and the National Planning Policy Framework. The development will be carried out in accordance with the approved details and retained as such thereafter.
- 6) No development, hereby approved, shall commence until the following components of a remediation scheme to deal with the risks associated with contamination of each phase for the intended use have been submitted to and approved, in writing, by the Local Planning Authority:
 - 1) A preliminary risk assessment, which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - 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) An options appraisal and remediation strategy 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.
- 7) 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.
- 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 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 dwelling hereby permitted and shall be retained thereafter.
- 9) Details of hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. 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 soft landscape works shall be implemented in accordance with the approved details. The approved works shall be implemented prior to the occupation of any part of the development hereby permitted 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.
- 10) The existing visibility at the site access, as shown on the approved plan ref 20.19.3, shall remain and thereafter maintained.

- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order amending, revoking and/or re-enacting that order, with or without modification), no development falling within Class A, AA, B, C, D and E of Article 3, Part 1 of Schedule 2 of the said Order shall be carried out without subsequent planning approval of the Local Planning Authority.