



Appeal Decision

Site visit made on 9 March 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/P4605/W/20/3263374

Land adjacent 39 Romford Close, Sheldon, Birmingham B26 3TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr M Singh against the decision of Birmingham City Council.
 - The application Ref 2020/03664/PA, dated 17 May 2020, was refused by notice dated 9 July 2020.
 - The application sought planning permission for variation of condition No. 2 (approved plans) attached to approval 2019/04857/PA for internal reconfiguration at ground and first floor levels including changes to windows, additional bedrooms on first floor and the inclusion of additional windows to first floor.
 - The condition in dispute is No 2 which states that: Requires the scheme to be in accordance with the listed approved plans. The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers "Proposed layout 100/842-0.2F" & "Site Plan 100/842-04 rev K" ('the approved plans')
 - The reason given for the condition is : In order to define the permission in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of varying the condition on the living conditions of adjacent residents.

Reasons

3. The appeal site is a former garage site, located near the end of Romford Close. The locality is dominated by residential development. A scheme for four maisonettes has been previously approved. The current appeal is before me to vary Condition 2 that relates to approved plans in order to modify the design of the approved scheme.
4. The appeal seeks to reconfigure the first-floor maisonettes, to allow two bedrooms per maisonette which includes the insertion of new windows. In addition, a ground floor maisonette would be reconfigured and as part of the works, it is proposed to remove obscure glazing to a window.
5. From the evidence in front of me it appears that negotiations have taken place through the original planning application and amendments were made and consent was given. The appellant now seeks further amendments after the

Reserved Matters approval in order to provide an extra bedroom to the first-floor maisonettes.

6. The design now provides 'pyramid' windows at first floor that have an obscurely glazed panel to one side and clear window to the other side, in order to overcome the Council's concerns regarding overlooking of the adjacent property.
7. I find that the design is somewhat contrived in order to provide the two extra bedrooms. The design of the 'pyramid windows' is not something that is used in this residential area. It is not proposed as a positive design feature, it is used to overcome a problem in terms of separation distances. As such it would look out of place and strange within a locality of reasonably traditionally designed properties.
8. The change to the ground floor window proposed seeks to use clear glass rather than privacy glass, which according to the evidence in front of me, was a change made at the approval stage. I find that reinstating the clear glass is not acceptable in that location, and the privacy glass was justified at the time, and still remains so.
9. The site has restrictions, due to its location, and I find that proposals to vary the condition are not acceptable in the location and would cause harm to the living conditions of adjacent residents, in terms of privacy.
10. I therefore conclude that Condition 2 is reasonable and necessary in its current form in order to protect the living conditions of neighbouring occupiers.
11. As a result I find that the proposals are contrary to policy PG3 of the Birmingham Development Plan (2017), policies 3.14C-D of the Birmingham Unitary Development Plan (2005) and guidance in the Places for Living Supplementary Planning Document (2001), which amongst other matters, expect development to create a positive sense of place that responds to site conditions and the local area context and have regard to the impact on the local character of the area.
12. It is also drafted in a precise manner and is enforceable. The condition was reasonably imposed and is consistent in respect of guidance in the Framework.

Conclusion

13. For the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR