



Appeal Decision

Site visit made on 12 November 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/P4605/W/20/3255753

Land to South of 69 Laurel Road, Handsworth, Birmingham B21 9NY

- 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 Neville Lambert against the decision of Birmingham City Council.
 - The application Ref 2020/02191/PA, dated 13 March 2020, was refused by notice dated 12 May 2020.
 - The development proposed is the erection of one dwelling house with associated vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling house with associated vehicular access at Land to South of 69 Laurel Road, Handsworth, Birmingham B21 9NY in accordance with the terms of the application, Ref 2020/02191/PA, dated 13 March 2020, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. Policy PG3 of the Birmingham Development Plan (the LP) details that new development is expected to demonstrate high quality design that contributes to a strong sense of place. Policy TP27 of the LP requires new housing is expected to contribute to making sustainable places. The policies seek to ensure that future housing is delivered in the most sustainable way, contributing to creating a sense of place and high standards of design, amongst other matters. Saved Birmingham Unitary Development Plan (the UDP) Paragraph 3.14C indicates that development should have regard to the Council's development guidelines, including Places for Living SPG.
4. The appeal site comprises an area of unused land at the southern end of Laurel Road enclosed by fencing, that I saw at my site visit has a negative effect on the character and appearance of the area. The site extends perpendicular to the long rear gardens of properties on Antrobus Road. Consequently, the appeal site is a wide and shallow plot in contrast to the surrounding built environment of more traditionally shaped and proportioned residential plots.

5. At this end of Laurel Road, the road turns at a right angle where the appeal site is located on the southern side, there are various buildings and structures often flush with the road and, a number of residential properties set back from the road on the northern side.
6. The proposed building is of a modern design with accommodation provided on two floors including a basement level. The design and access statement details that appeal scheme has been designed to be largely hidden from view from the street and to achieve a very low level of prominence in an otherwise prominent location.
7. While the appeal site lacks depth and therefore the set back of the proposed dwelling from the road that is typically found in the local area is absent, the submitted plans nonetheless show that the design of the proposed dwelling is an innovative solution to the constraints of the site. The resulting development would not be unduly prominent and will bring back into use a previously developed site that currently has a negative effect on the character and appearance of the area, in particular with regards 'flytipping' as identified by a number of local residents.
8. I note that the appeal scheme has been designed to meet the special needs of the applicant and their family. This is a material consideration and I have afforded it some weight in the determination of this appeal.
9. On this basis I find that the appeal scheme does not harm the character and appearance of the area and therefore is not in conflict with Policy PG3 and TP27 of the LP, Saved UDP Paragraph 3.14C and the relevant provisions of the National Planning Policy Framework.

Conditions

10. In the interests of clarity, I have included conditions specifying the life of the permission, the approved plans and requiring the submission of site levels. In the interests of the environment and the living conditions of future occupiers of the dwelling I have included conditions relating to contaminated land and the submission of a verification report. In the interests of the character and appearance of the area I have included conditions controlling the proposed boundary treatment and materials relating to external surfaces of the dwelling and the surfacing the onsite carparking.
11. In the interests of the living conditions of the occupiers of adjacent dwellings, I have removed the permitted development rights of the dwelling relating to the creation of new windows in any elevation. In doing so I have had regard to the relevant statements contained within the Planning Practice Guidance¹ and Paragraph 55 of the National Planning Policy Framework. In this instance I am satisfied that such a condition is reasonable and necessary as a result of the specific circumstances of the appeal scheme.
12. Turning to conditions relating to highways, the Council suggested conditions relating to pedestrian visibility splays and car parking layout. I note that it is accepted by the parties that the visibility splays requested by the Council cannot be accommodated within the proposed development as it currently stands. The appellant has submitted details of the visibility splays that can be

¹ Paragraph: 017 Reference ID: 21a-017-20190723

- provided on site, being 1.5X1.5m, substantially less than the 3.3X3.3m requested by the Council.
13. The submitted plans show that there is a short section of footpath adjacent to the appeal site, with a continuous footpath on the opposite side of the lane. At the time of my site visit the road and footpath appeared little trafficked and vehicle speeds that I did observe were low. On this basis I am satisfied that the appeal scheme already provides appropriate access arrangements and no additional highway related conditions are required to make the appeal scheme acceptable.
 14. In the interests of the environment and in accordance with the National Planning Policy Framework, I have included a condition as requested by the Council and not objected to by the appellant, requiring the installation of one electric vehicle charging point. I have amended the wording from that suggested by the Council in the interests of clarity.
 15. I have not included a condition relating to noise that was requested by the Council because the reasoned justification supplied by the Council is insufficient to justify such a condition. In particular I note that the consultation response from the relevant department of the Council identified that there were existing dwellings closer to the unspecified industrial properties and that there was no history of noise complaints. Furthermore, based on the evidence before me no noise survey was requested by the Council or provided by the appellant.
 16. The appeal scheme relates to a single private residential dwelling. The private spaces of the dwelling will be open to very limited views from other public areas and the provision of soft and or hard landscaping to a particular standard is not essential to the approval or otherwise of the appeal scheme. Therefore, it has not be demonstrated that it is necessary to include a condition controlling the details of the landscaping at the appeal site.

Conclusion

17. For the reasons given above I conclude that the appeal should be allowed.

Mark Brooker

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: 2369-0001 Rev 01; 2369-1000 Rev 02; 2369-1100 Rev 04-WIP; 2369-2000 Rev 03; 2369-2001 Rev 02; 2369-2002.

3) 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.

4) 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:

i) 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
- potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (i) to provide information for a detailed risk assessment of the risk to all receptors that may be affected, including those off site.

iii) If contamination is found present and assessed as an unacceptable risk to human

iv) health safety and the environment an options appraisal and remediation strategy

v) shall be submitted giving full details of the remediation measures required and how

vi) they are to be undertaken, timetable of works and site management procedures.

5) 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.

6) 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 dwelling hereby permitted and shall be retained thereafter.

7) Details of the materials to be used for hard and paved surfacing for the parking of motor vehicles 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) Samples of the materials to be used in the construction of the external surfaces of the dwelling 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.

9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on any elevation.

10) Details of a charging point for electric vehicles shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation. The development shall be implemented in accordance with the approved details maintained thereafter be maintained

11) Samples of the materials to be used in the construction of the external surfaces of the dwelling 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.

END OF SCHEDULE