



Appeal Decision

Site Visit made on 13 April 2021

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2021

Appeal Ref: APP/P4605/W/20/3263716

138 Weoley Park Road, Selly Oak, Birmingham, B29 5HA

- 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 Mahbouba against the decision of Birmingham City Council.
 - The application Ref 2020/04717/PA, dated 7 July 2020, was refused by notice dated 29 September 2020.
 - The development proposed is the installation of front and rear dormers to accommodate a self contained flat with external alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the intensification of the use on site on the character and appearance of the surrounding area; and, the standard of accommodation provided for future occupiers with particular regard to useable outdoor space.

Reasons

Character and Appearance

3. The appeal site is on the south side of Weoley Park Road next to the junction with Howes Rise. The site contains a detached bungalow set back from the road by a deep parking area. To one side of the property is a driveway, while to the other is a narrow passageway, both of which extend to the back of the plot where they join the rear garden. There is no one unifying characteristic to the street which contains a number of varying property types and sizes along the southern side, while the north side is bounded by a large cemetery.
4. The intensification of the residential use on site, through the provision of accommodation within the roof would likely result in some change to the way in which the site is used and its appearance within the street scene. However, I find these changes would likely be limited as there would only be two additional bedrooms over the existing five. Therefore, while there would likely be some additional vehicles, bins and other residential paraphernalia on the site it is unlikely that this would increase so significantly as to appear incongruous with the surrounding variety of property types. Although there is currently no side door to the dwelling, this would not be readily visible in public views and its use by future occupiers would not significantly affect the character of the site as there is already a passage to the rear garden on this side of the house. In this way I find that the use of the site as a whole and the associated residential

paraphernalia would not unacceptably change to the detriment of the character and appearance of the surrounding area.

5. The proposal would not so significantly intensify the use on site as to no longer be in keeping with the residential nature of the surrounding area. I find that in this way the proposal therefore complies with Policies PG3 and TP27 of the Birmingham Plan 2031: Birmingham Development Plan (BDP), Policies 3.14C and 8.26-8.27 of The Birmingham Plan: Birmingham Unitary Development Plan 2005 (BUDP) which require, amongst other things, development to be of a high design quality which reflects the surrounding area. The development would also comply with the guidance on design contained within the Places for Living Supplementary Planning Guidance (PfL), and the National Planning Policy Framework (the Framework), including at Paragraph 127.

Quality of Useable Outdoor Space Provided

6. The rear garden is relatively compact and is divided by a retaining wall which further reduces the available useable space. The raised patio area at the top of the retaining wall is split into a number of smaller terraces, whilst the lower area is all at one level. I note the appellant mentions in their appeal statement that their intention is to grass over the gravel section at the bottom of the drive, to increase the garden space. However, as the gravel area is already available for use, grassing over the space would not materially affect the provision. Moreover, I find it is unlikely that any additional space could be given over to the garden as the appellant also suggests the driveway be used to accommodate further parking for the property.
7. The proposed shared garden area is very close to rear of the ground floor flat which has two windows and a set of glazed patio doors looking out across it. As a result of the proximity to these, which serve a kitchen and dining room, the patio would not be an attractive space for use by the occupiers of the first floor flat who would likely feel overlooked by occupiers within the ground floor. As a result, although the garden is intended to be communal, I find it likely that only the small grass and gravel area at the bottom of the garden would likely be used by future occupiers of the first floor flat. This area would not be sufficient on its own to accommodate the likely needs of future occupiers, because it would be shared with the larger ground floor flat.
8. It has not been demonstrated what the intended route for future occupiers of the first floor flat would be to access the garden. However, the closest access would be across the patio immediately behind the glazed patio doors serving the ground floor flat. This could result in conflict between occupiers of the flats, regarding disturbance and privacy, and would therefore be off putting for the occupiers of the first floor flat. While a secondary access is also available through the driveway, this longer route would create a sense of detachment from the garden which, when coupled with the aforementioned closeness of the overall garden to the rear doors and windows of the ground floor flat, would likely result in future occupiers of the first floor not feeling a sense of shared 'ownership' over the garden and it therefore being a less attractive place for them to use.
9. Although I am mindful that the proposal would not result in any harm to the living conditions of neighbouring occupiers, this is not a benefit of the scheme and I therefore attach it only a neutral weight against the harm identified.

10. I therefore find that the future occupiers of the first floor flat would not be provided with a functional outdoor space. As such the proposal is contrary to BDP Policies PG3 and TP27 and BUDP Policy 3.14C which require development to, amongst other things, ensure that private external spaces are attractive, functional and inclusive. It would also not comply with the guidance contained within the Pfl on garden provision, nor Paragraph 127(f) of the Framework which requires development provides a high standard of amenity for existing and future users.

Conclusion

11. Notwithstanding my findings on character and appearance, this would not outweigh the poor quality of external living space provided for future occupiers. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR