
Appeal Decision

Site visit made on 25 May 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/P4605/W/21/3270387

107 Rednal Road, Birmingham B38 8DT

- 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 F Gora against the decision of Birmingham City Council.
 - The application Ref 2020/08835/PA, dated 5 November 2020, was refused by notice dated 15 February 2021.
 - The development is erection of single storey detached dwelling with associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Development has been carried out and therefore planning permission is being sought retrospectively. The appeal has been determined using the plans submitted to the Council, which provide the basis for which planning permission is being sought.

Main Issues

3. The main issues are the effect of the development on the:
 - (a) character and appearance of the area; and
 - (b) fire safety.

Reasons

Character and Appearance

4. The site is located on land to the rear of 107 Rednal Road, in the residential area of Kings Norton, which is characterised by large two storey detached dwellings on large and spacious plots. Generally speaking, dwellings are set forward on their plots, fronting the highway with large rear garden areas. Notwithstanding scale, there is variation between dwellings in design terms. For example, there are hipped roofs and gable roofs, dwellings constructed with brick and tile, and dwellings constructed with render and timber detailing, among other things. There is a mature green infrastructure network of trees and other boundary features that intersperse the built form to create a softened and leafy vernacular.

5. There appears to be some limited amounts of backland development in the immediate vicinity of the site, comprising several dwellings delivered as coherent standalone developments. Notwithstanding, the overriding pattern of development in the vicinity of the site remains as previously described, comprising large two storey dwellings on spacious plots. Historically, the site itself has been generally reflective of this pattern of development, in that 107 Rednal Road, which is a large detached dwelling, is located on a large plot and would have enjoyed a spacious rear garden area.
6. The development is a single storey dwelling set in the rear garden area of 107 Rednal Road, and consequently it erodes a significant proportion of the plot. Furthermore, the single storey nature of the dwelling would be at odds with the two storey nature of the majority of other dwellings in the area. Therefore, at a fundamental level, the development disrupts the site's role in preserving the prevailing pattern of the development, harming the area's character and appearance.
7. There is an apparent variation in the design of dwellings in the area, at least in relation to construction materials and other matters of detail. However, in broad terms, this variation does not extend to the general scale and form of dwellings, where there is clear incongruity presented by the development. Consequently, even if design features, such as materials detailing, were consistent with the variation apparent in the area, there would still be fundamental discordance in overall design terms due to differences in scale and formation of the building and plot.
8. Other developments identified in the vicinity of the site appear to be of a different scale in comparison to the development in this case, insofar as they are larger, comprising multiple dwellings and capable of taking on their own sense of place and reflecting prevailing characteristics of the area. For example, the infill development at Norton Gate and Kings Gate and others, in general terms, would appear to maintain larger dwellings and plots broadly reflective of the area.
9. In any event, however, even if these developments did depart from the overriding pattern of development in one way or another, they constitute limited exceptions to the rule. Ultimately, the wider and prevailing pattern of development remains larger dwellings on larger plots of land and this should be protected from piecemeal backland development that might slowly erode it over time.
10. Regarding the proposition that 410sqm of garden land would still constitute a large plot, this has not been proven in quantitative terms, insofar as there is not a numerical analysis of other areas of garden land in the vicinity. In qualitative terms, based on the evidence in front of me, the site would be eroded to the detriment of the character and appearance of the area.
11. In design terms, although the access would appear narrow in its construction, given that it would form a limited component of the wider development, with limited opportunities to affect the wider character and appearance of the area, I cannot conclude that it would generate an unacceptable level of harm.

12. In relation to pre-application advice given by the Council, Planning Practice Guidance¹ is clear that such advice is not binding and does not pre-empt the democratic decision making process or a particular outcome. In a similar context, there is no evidence by way of lawful development certificate, or otherwise, that demonstrates that the purported fallback position is compatible with each and every requirement of the relevant regulations.
13. In the absence of such evidence, and at this juncture, I find it difficult to conclude that a building of this size, which for all intents and purposes presents itself as a separate dwelling, would constitute a building incidental to the enjoyment of the existing dwelling. Consequently, I give limited weight to any purported fallback position under this appeal.
14. In this context, notwithstanding the evidence submitted, the lawful use of the building is not a matter to be determined under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act and any such application would be unaffected by this appeal.
15. Overall, the development would harm the character and appearance of the area and conflict with Policies PG3, TP27 and TP30 of the Birmingham Development Plan 2017 and saved Paragraph 3.14 C-D of the Birmingham Unitary Development Plan 2005. Among other things, these policies seek to preserve the character of the locality in a mature suburb.

Fire Safety

16. The vehicular access currently serves the dwellings that were recently granted planning permission. However, it is disputed whether the entirety of the access within the site serving the development in this case would be wide enough for the purposes of fire safety. The appellant contends that there has been an error on the plans and that a fire safety compliant width is deliverable on site.
17. During my site visit, I saw no reason why such a width could not be secured in practice, given the marginal differences between the originally stated width of 3m and the compliant width of 3.8m. Consequently, without countervailing empirical evidence to the contrary, it would seem reasonable to secure the width of any access arrangements by planning condition.
18. Overall, the ability to impose a planning condition means the development would not have an unacceptable effect on fire safety and would not conflict with the Approved Document B (Fire Safety) Vol 2, Sec 15, the National Guidance Document on the Provision for Fire Fighting and Policy TP28 of the Birmingham Development Plan 2017.

Other Matters

19. Even if the Council could not demonstrate sufficient housing land supply, something that has not been fully articulated by the appellant in evidence, the development would only deliver a limited benefit to any shortfall. Consequently, even if the shortfall was substantial, it is highly likely that the adverse effects identified under the main issues and conflict with the development plan therein would outweigh the limited benefits. Accordingly, a presumption in favour of sustainable development would not apply.

¹ Paragraph: 011 Reference ID: 20-011-20140306 Revision date: 06 03 2014

Conclusion

20. For the reasons given, even though appropriate access and fire safety could be secured by planning condition, the development would harm the character and appearance of the area and be in conflict with the development plan. There are no other material considerations indicating that a decision should be taken otherwise than in accordance with the development and the appeal is therefore dismissed.

Liam Page

INSPECTOR