



Appeal Decision

Site Visit made on 29 June 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2021

Appeal Ref: APP/P4605/W/21/3271679

42A Turnley Road, Shard End, Birmingham B34 7DP

- 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 Khalid Hussain against the decision of Birmingham City Council.
- The application Ref 2020/06055/PA, dated 5 August 2020, was refused by notice dated 12 February 2021.
- The development proposed is erection of 1 no. dwelling house and associated parking.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the header above is taken from the Council decision notice and appeal form. It is more accurate than that set out on the application form. As it is used by both main parties, I am satisfied that no injustice would be caused by basing my assessment on this description.

Main Issues

3. The main issues are (i) the effect of the proposal on the character and appearance of the area, (ii) the effect on the living conditions of occupiers of neighbouring residences in respect of light, outlook and privacy, and (iii) whether the proposal would provide adequate living conditions for future occupiers in terms of privacy.

Reasons

Character and appearance

4. The houses in Turnley Road close to the appeal site are 2 storeys high, in short terraces and face the road. While there are other types of building in the wider area, there is a significant degree of uniformity to the properties adjacent to the site. This consistency and rhythm contributes positively to the street scene.
5. The proposed house would be set back from the road but the upper part of its side elevation would be glimpsed from the street between 42 and 44 Turnley Road (Nos 42 and 44). Furthermore, the proposal would be clearly seen from the adjoining properties. As such, it would influence the character and appearance of the locality.
6. In contrast to the prevailing pattern of development, the proposed house would not face the road and would be positioned behind the adjoining dwellings. Furthermore, it would be a detached unit with 2 dormer windows in its front

roof slope and so its form would be at odds with the terraced housing without front dormers. The height and mass of the unit would be similar to nearby houses but even so, by reason of its incongruous design, positioning and orientation, the proposal would fail to harmonise with its surroundings.

7. For these reasons, the development would harm the character and appearance of the area. In these regards, it would not accord with policies PG3 and TP27 of the Birmingham Development Plan 2017 (BDP) and policies 3.14C to D of the Birmingham Unitary Development Plan 2005 (UDP). These aim, amongst other things, to ensure proposals respect the surrounding area and reinforce local characteristics.

Living conditions of occupiers of adjoining properties.

8. The rear wall of the proposed house would be on the boundary with No 42. It would be closest to the neighbour's garage which appears to contain no windows that serve habitable rooms. However, by virtue of its proximity and height, the upper part of the dwelling would be clearly seen over the boundary fence from No 42's other rear windows and from its back garden.
9. It is unclear from the information provided as to whether, in respect of No 42, the proposal would accord with the 45 degree code as referred to in the Council's refusal reasons. In any event, the house would stretch along most of the depth of the plot and so it would have a striking overbearing effect on No 42. Also, it would lie to the south and so it is likely that the house would cause overshadowing and a loss of light to No 42's windows and back garden.
10. Moreover, the site includes the appeal property 42A Turnley Road (No 42A) which is attached to No 44 but is apparently lived in as a separate dwelling. The drawings indicate no subdivision of the site or any boundary treatment that would prevent overlooking from the proposed house onto the garden area currently serving No 42A. The submissions indicate that the appellant would live in the proposed house but there is no suggestion that No 42A would be used as ancillary accommodation to the proposal. As such, the scheme would result in a marked loss of privacy to No 42A's garden.
11. The proposal would be on the boundary with the back gardens of Timberley Lane properties and would be clearly seen over the boundary fences. However, the gardens are long enough so as to ensure the proposal would avoid a marked loss of light to, or outlook from, these dwellings. Also, it would be set away from No 44 and so it would avoid an overbearing effect to this property.
12. Windows would be positioned so as to cause no easy direct overlooking onto No 42, No 44 and Timberley Lane houses and gardens. Proposed fenestration would allow direct views towards properties on Shard End Crescent but the house would be away from the boundary and overlooking would be obstructed to a degree by the existing garage.
13. However, the acceptability of the proposal in some regards fails to address the identified detriment in respect of No 42 and No 42A. As such, I conclude the proposal would harm the living conditions of the occupants of No 42 in terms of loss of outlook and light and occupants of No 42A in respect of loss of privacy. In these regards, the scheme would not accord with BDP policy PG3 which, amongst other things, seeks to ensure private external spaces are attractive and that design responds to site conditions. BDP policy TP27 and UDP policies

3.14C to D are referred to in the Council's refusal reason but contain no specific provisions relevant to this main issue.

Living conditions of occupiers of the proposed house

14. No 42A is included as part of the appeal site and the submitted drawing indicates the proposed garden would be shared by its occupants and occupiers of the appeal development. Consequently, it would appear the proposal would have no private garden which would exclusively serve its residents. Also, as there would be no boundary features to separate No 42A from the proposal, occupants of No 42A would be able to look into the development's ground floor windows at close quarters.
15. As such, I conclude the proposal would not provide adequate living conditions for future occupiers in respect of privacy. In these regards, it would not accord with BDP policy PG3 as it would not ensure attractive private external spaces and would not respond to site conditions.

Other issues and planning balance

16. The proposal would help meet the appellant's accommodation requirements, although there is no evidence that shows these can only be addressed by the appeal scheme. As such, this factor attracts limited weight in my assessment.
17. The development would include energy efficiency and renewable energy measures with windows that face southwards to receive maximum sunlight. Also, the scheme would result in the more effective use of land within an urban area with good access to facilities and public transport services. Moreover, the proposal would make a small contribution towards the housing stock. All of these factors weigh in favour of the development.
18. However, the harm identified in respect of the main issues means that the proposal would be contrary to development plan policies when read as a whole. Overall, the benefits of the scheme and other considerations are of insufficient weight to justify making a decision other than in accordance with the development plan.

Conclusion

19. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR