
Appeal Decision

Site Visit made on 7 September 2021

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/P4605/W/21/3276827

45 Victoria Road, Sutton Trinity, Sutton Coldfield B72 1SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jem Hamit, Northern Developments Ltd., against the decision of Birmingham City Council.
 - The application Ref 2020/09552/PA, dated 30 November 2020, was refused by notice dated 22 April 2021.
 - The development proposed is described as 'Demolition of the existing dwellinghouse and erection of a new building containing up to 6 apartments with under croft car parking, widening of the existing access and associated works'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Northern Developments Ltd. against Birmingham City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal proposals have been submitted in outline with appearance, landscaping, layout and scale reserved for later consideration. Whilst not formally part of the scheme I have treated the illustrative elevations, sections and apartment layouts submitted with the appeal application as no more than a guide as to how the site might be developed.
4. In my assessment of the appeal, I have had regard to the iteration of the National Policy Framework published on 20th July 2021, on which the main parties have had an opportunity of commenting at appeal.

Main Issues

5. The main issues are the effect of the proposal on i) the supply of family dwellings to meet local need and ii) the character and appearance of the area.

Reasons

Housing mix

6. Policy TP27 of the Birmingham Development Plan requires that new housing should contribute to creating sustainable places. It indicates that a wide choice of housing, sizes, types and tenures, together with high quality design, would assist in the delivery of sustainable communities. Policy TP30 supports this requirement by seeking the delivery of a range of new dwellings to meet local

- need. Policy TP35 seeks to prevent the loss of existing housing stock, which is in good condition, or could be restored to good condition, to other uses.
7. The Strategic Housing Market Assessment (2013) identified that the greatest housing need over the plan period was for two bed dwellings followed by three and four plus bed dwellings. Evidence produced by the Council indicates that the majority of completions up to 2019 have been in the form of one and two bed dwellings, with the provision of three and four plus bed houses falling short of the city's needs.
 8. Whilst acknowledging the Council's desire to retain and improve existing housing stock, in accordance with Policy TP35, I find that the redevelopment of the site would result in the loss of one two bed dwelling, with the potential to deliver several apartments, capable of accommodating families. There is no indication in the evidence before me that family housing referenced in the development plan is limited to dwellinghouses as opposed to flats. Indeed, the illustrative apartment type layouts and elevations indicate that five three bedroom apartments, that would meet the Council's internal space standards, could be provided at the site. This would result in a net increase of four dwellings.
 9. Notwithstanding the description given on the application form, it would not preclude the provision of more residential units with fewer bedrooms at the reserved matters stage. This could lead to conflict with the Policy TP27 which seeks to secure a mix of housing types to meet local needs, including the provision of three and four plus bed houses. Consequently, in the event that the appeal was allowed, it would be reasonable and necessary to impose a condition restricting the total number of apartments and requiring that the layout, including the number of bedrooms in each apartment, to be addressed at the reserved matters stage.
 10. The delivery of four additional family homes would make a small contribution, towards creating the sustainable places that the Council desires, as set out in Policy TP27. This is all the more the case given the close proximity to services and facilities that are available within the town centre, which would be within easy reach of future occupiers.
 11. In light of the above I conclude that the proposal would be acceptable with regard to housing mix and would increase the supply of family dwellings to meet local need in accordance with Policies TP30 and TP35 of the Birmingham Development Plan (2017). Similarly, in this respect the proposals accord with the relevant provisions of National Planning Policy Framework (the Framework) which seek to boost the supply of homes and support development that makes efficient use of land taking into account the identified need for different types of housing.

Character and appearance

12. The site comprises an existing four bedroom detached dwelling located outside the ring road that encircles the town centre. The existing house sits at a bend on Victoria Road and is set diagonally across the site a short distance back from the footway. It lies at a higher level than the highway, and is therefore relatively prominent. It sits amongst other semi-detached and detached houses of a similar design, scale and materials leading to a strong consistency here. The houses outside the ring road have a distinctly different and more modest

- character to the properties inside the ring road, which comprise of a mix of residential and commercial uses within larger blocks of modern buildings.
13. The Council are concerned about the impact of the demolition of the existing dwelling and its replacement with a new building that would accommodate the quantum of development being proposed. In their assessment of the proposal, they refer to the indicative plans submitted with the application which illustrates a three and four storey building of contemporary design.
 14. The proposal is expressed to be for outline consent with appearance, landscaping, layout and scale reserved for later consideration. That said, the proposed development is described as the erection of a new building containing up to six apartments with under croft car parking. There would be a degree of flexibility in the number of residential units, and the number of bedrooms per unit, that could be provided within the proposed development.
 15. Nevertheless, a scheme that would deliver up to six family dwellings, including of the type shown on the illustrative drawings, would inevitably result in a development of a significantly greater height and mass than its immediate neighbours and No 45 as it presently stands. As a result, it would appear as an incongruous and discordant feature within the street scene markedly at odds with the prevailing character here described above.
 16. Furthermore, given the quantum of development that is likely to result from the proposed development, the space available around the building for soft landscaping, particularly at the front of the site, would be limited. In the absence of substantive planting, the proposed development would appear prominent within the street scene, and as a result would have a harmful impact on the established and mature residential character of the eastern side of Victoria Road.
 17. I acknowledge that there would be an opportunity to consider the appearance of the proposed development and the landscaping of the site at the reserved matter stage. However, whilst noting this opportunity, I find that the contemporary design solution shown on the illustrative drawings would not be in keeping with the existing properties on the eastern side of Victoria Road, which have a homogeneous appearance. That said, it is unlikely to be the only design option and other alternatives, including one that responds to the traditional appearance of the neighbouring houses, might be more appropriate in this location.
 18. In light of the above I conclude that the proposal would result in harm to the character and appearance of the area, in conflict with Policies PG3 and T27 of the Birmingham Development Plan 2031, saved Paragraph 3.14 of the Birmingham UDP 2005, the Places for Living SPG and the Mature Suburbs SPD. These jointly seek developments that respond to the local area context with high quality design and landscaping. They are in broad conformity with the National Planning Policy Framework.

Other Matters

19. The appellant has drawn my attention to a number of appeal decisions and applications granted by the Council. I acknowledge that there were some similarities between the appeal development and certain submitted cases their context and the details were different to the appeal proposal, and that in some

instances it is possible to be satisfied on the basis of an outline application that the visual effects of a proposal would be acceptable.

20. Nevertheless, the context specific to each, and the details of the particular scheme, were different to the appeal proposal. In particular I noted that the development at 278 Birmingham Road¹ was for two bedroom units and was of a traditional design. The development at Church Road, Moseley² was for the conversion of a house into eight self-contained flats. They are therefore not directly comparable with the circumstances here, and do not justify the proposed development or provide good reason for allowing harmful development. In any case, each development should be considered on its individual merits, and this is the approach that I have adopted.
21. I acknowledge that the Appellant sought pre-application advice. As a result, the number of units was reduced from a scheme that contained 14 units to one containing 'up to 6 apartments', in an attempt to secure a scheme that met with development plan policy and other planning guidance. From what I have read it is apparent that, at the pre-application stage, the Council had no objection in principle to the redevelopment of the site, however, it is clear that they had significant reservations about the amount of development that was being proposed and pre-application advice is, in any event, not binding.
22. Whilst I am also aware that the Council could have exercised their right to seek further information following the procedure set out in Part 3 Section 5 of the Town and Country Planning (Development Management) Procedure Order 2015 they chose, for their own reasons, not to. Consequently, I am required to determine the appeal on the basis of the evidence that is before.
23. In its officer's report the Council indicate that they have no objections on highway safety subject to relevant planning conditions. Furthermore, they have no objection in principle to the ecological mitigation and compensation measures proposed, subject to the imposition of appropriate conditions.
24. From the information before me there has evidently been some discussion between the main parties as to the potential effects on neighbouring living conditions. However, even were I to reason that the proposal would be acceptable in all other respects, for example subject to agreement of reserved matters or other conditions, that would be effectively neutral in my assessment of the scheme.
25. I have taken into account the Appellants desire to provide residential accommodation that is energy efficient. Both parties agree that the existing property is in reasonable condition but would benefit from refurbishment to bring it up to modern day standards. I have no reason to disagree with this objective but acknowledge that there would be a significant cost associated instigating the required works to the existing property, which might be better utilised in carrying out a new build development. However, this aspiration does not provide good reason for allowing harmful development.
26. I note that the appellants have tried to sell the property and have had feedback from viewers who had discounted the property for various reasons. Whilst sales particulars have been provided, I have been provided with little evidence demonstrating how the property was marketed or the level of interest that was

¹ Planning application 2019/05048/PA

² APP/P4605/C/18/3213920

shown in it. In particular I have seen no substantive evidence regarding the availability of three and four bedroom houses in the local area, or the need for family accommodation in an apartment setting with communal outdoor space.

Planning Balance

27. The Council's objective is to deliver a wide choice of housing, sizes, types and tenures, together with high quality design, to meet local need. The proposal would provide several new residential units capable of occupation by families in a sustainable location. Given the small scale of the proposal the provision of the additional family housing attracts modest weight.
28. Conversely, the quantum of development proposed, and its prominent location in an established and mature residential area would, on the basis of the evidence before me, undermine the Council's approach to the delivery of housing development that is sympathetic to local character. This matter attracts significant weight and outweighs the benefits associated with the proposed development.
29. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh the harm arising from this conflict.

Conclusion

30. For the above reasons, having regard to the development plan as a whole, and all other relevant material considerations, I conclude that the appeal should be dismissed.

John Gunn

INSPECTOR

