



Appeal Decision

Site visit made on 11 January 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Monday 14 February 2022

Appeal Ref: APP/P4605/W/21/3282576

65 Church Road, Moseley and Kings Heath, Birmingham B13 9EB

- 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 H Hussain against the decision of Birmingham City Council.
 - The application Ref 2021/04269/PA, dated 10 May 2021, was refused by notice dated 30 July 2021.
 - The development proposed is side second floor extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's Decision Notice sets out the description of the proposal as "Erection of second floor side extension and associated roof alterations". This description more accurately describes the proposal and I have therefore dealt with the appeal on that basis.
3. The Council's decision notice refers to saved policies in the Birmingham Unitary Development Plan (adopted 2005). These policies have now been replaced by the Birmingham Development Plan (2017) (BDP) and the Development Management in Birmingham Development Plan Document (2021) (DPD). The main parties are aware of this and have been given the opportunity to comment. I have determined the appeal in regard to the development plan at the time.
4. Drawing No. 1 Rev B, and Drawing No. 2 Rev B were submitted with the appeal. They correct the two errors on the original drawings that showed 1) an incorrect window opening at ground floor level in the rear elevation, and 2) the incorrect positioning of an existing window on the rear elevation. They also include additional architectural detail of the proposal and alter the appearance of the proposed window on the front elevation.
5. The window errors are minor corrections that could be considered acceptable on their own but, taken cumulatively with the additional architectural detail and the window adjustment on the front elevation, they materially alter the nature of the original application and if I were to accept them, I may prejudice the interested parties to comment. I have therefore determined the appeal on the basis of the plans considered by the Council.
6. This proposal (2021/04269/PA) is the third planning application to be submitted to the Council. The previous two applications (2020/09812/PA and 2021/01877/PA) were refused by the Council. This proposal differs from the

last refused scheme (2021/1877/PA) in that it no longer proposes a single storey ground floor extension to the side facing 67 Church Road. There are some other minor changes internally. However, essentially the proposal would extend the second floor flat (no 6), providing an additional bedroom, small bathroom and a larger kitchen than the existing situation.

Main Issues

7. The main issues are the effect of the proposal on a) the character and appearance of the area, b) the living conditions of neighbouring occupiers, c) the living conditions of future occupiers; and d) protected trees.

Reasons

Character and Appearance

8. The appeal site is a large 2.5 storey detached dwelling set back from and facing the road. It has a traditional frontage consisting of forward projecting bay windows, feature timber detailed gables and window headers, a centralised front entrance and slim profile fenestration. Along with other similar buildings in the street scene and for the above reasons, the host building contributes positively to the traditional character and appearance of the area.
9. The proposal would be an upward extension over an existing two storey side element. The proposal would not replicate the existing architectural features into its design, such as the timber framing, window type, size or design. This lack of architectural detail and disproportionate approach to fenestration would erode the original and characterful architectural appearance of the property. In addition, the proposal would introduce a new roof line to the side which would detract from the dominance of the existing and far more traditional front facing gable, resulting in something of a block like appearance to the building as a whole. Consequently, the proposal would appear as an incongruous feature within the street scene. It would therefore be harmful to the character and appearance of the area.

10. Living Conditions of Neighbours

11. I note the discrepancy to the plans submitted by the appellant with regard to the incorrect rear elevation window opening at ground floor level. There also appears to be some discrepancy on the plans with the placement of the existing window at first-floor level in the rear elevation. Concerns have been raised by local residents about these windows and their outlook onto the neighbour's outdoor amenity area at No 2-4 Coppice Road. However, these factors are neutral in my considerations as they do not add further harm or favour to the proposal. This is because the appellant has confirmed that one window does not exist and the other is an existing window and is not being altered by the proposal.
12. However, the proposed extension and roof alterations would increase the bulk and height of No 65 to the rear. As this side of No 65 runs along the boundary of No 2-4 Coppice Road, the proposal would appear as an unduly enclosing feature when viewed from the car park and amenity space of No 2-4 Coppice Road. I note the appellant claims that it would be only a modest increase to the flank wall. Nonetheless, it is still an increase that would have an adverse impact on neighbouring amenity space, resulting in an oppressive experience for users.

13. The proposal includes a new second floor (third storey) window on the south-west side elevation. This window would serve the kitchen to the enlarged flat 6 at the host property. The south-west elevation of No 65 faces onto the side elevation of No 67. The neighbouring property at No 67 has several existing windows in its side elevation, some of which are habitable rooms. The proposed window at No 65 would face almost directly towards the window of the second floor flat on the side elevation of No 67. The separation distance between the proposed extension and the side elevation of No 67 is around 14 metres. As the Places for Living SPG (adopted 2001) requires a 15.5 minimum distance between windowed elevations and opposing three storey flank walls, the proposal would fail to meet the requirement. This shortfall in separation distance would result in a loss of privacy to the occupiers of No 67. In addition, the proposed extension would increase the mass of built form in close proximity to No 67, and in particular, the windows in the neighbour's existing side elevation. Consequently, it would appear as an enclosing feature when viewed from the windows of No 67. This loss of outlook and privacy would impact negatively on the living conditions of No 67.
14. The harm caused by the loss of outlook and privacy would be unacceptable to the occupants living conditions of No 67. I note the appellant suggests a condition to secure obscure glazing in No 65's proposed kitchen window that directly overlooks No 67. However, an obscure glazed window would cause an unacceptable loss of outlook from the kitchen and light intake for the future occupiers of flat 6 at the host property. As kitchens are rooms that are used frequently in a dwelling, this would cause harm to the future occupiers living conditions. It would also not resolve the loss of outlook for No 67.

Living conditions of Future Occupiers

15. No 65 does not make provision for any existing private amenity space. I note the Places for Living SPG (2001) requires 30sqm of private amenity space per flat. As the proposal does not make any provision, it falls short of this requirement. The proposal would therefore not provide space for the needs of a family such as private outdoor seating area, outdoor space for drying clothes, and safe useable space for children to play. Therefore, the proposed extension would not provide adequate living conditions for the occupants of flat 6, having regard to the lack of useable amenity space.
16. The proposal is for an extension to create a 2-bedroom flat and therefore it is reasonable to conclude that it could be occupied by a small family of 3. As the host property does not make provision for any private amenity space this would not provide adequate living conditions for future occupants of the proposal. I do not therefore consider the potential increase in the number of occupiers at the building 'de minimis'.
17. There is some outdoor space at the front of the property. However, as the space is not private it cannot be considered as useable amenity space for the needs of a family. I also acknowledge that the proposal is not for an additional flat, but as there is no existing private amenity space at No 65 and the proposal would not create any, harm would arise to the living conditions of future occupants of flat 6.
18. The proposal would have a floorspace more than the Government's Technical Housing Standards (March 2015) minimum gross internal floor area of 70sqm for a 2-bedroom flat. As a consequence, it would meet the minimum Nationally

Described Space Standard for a 2-bedroom flat. Also, the proposal is to enlarge an existing flat in the building, not to create an additional one. Therefore, as the number of flats within the building remains the same and the proposal's floorspace meets the minimum space standards, it would not represent over-intensification.

Protected Trees

19. The appeal property contains two mature trees on the street frontage which are protected by a Tree Preservation Order. It is noted in the Tree Officer's comments that the proposal would not make any changes to the footprint of No 65 at ground level and that the roof extension is away from the trees. However, the Tree Officer does request details of the scaffolding positions and any facilitation pruning that may be needed. This information has not been provided by the appellant.
20. The appellant has suggested that a condition could have been used to secure tree protection measures during construction and an arboricultural method working statement to be submitted prior to the commencement of any development. I concur with this view and consider that this could be dealt with by condition. I also note that the appellant claims no trees would be lost as part of the proposal. However, the Council's Places for Living SPD (2001) requires tree surveys to be submitted at planning application stage to help assess the impact of the proposal on the trees. In addition, Policy TP7 of the Birmingham Development Plan (adopted 2017), recognises the importance of street trees in promoting the character of place.
21. I therefore conclude that insufficient information has been submitted to be satisfied that protected trees will not be adversely affected. In addition, the inaccurate plans originally submitted by the appellant have further compounded this issue as the precise location of trees was not shown on the drawings.

Other Matter

22. The Council refer to Policy TP27 of the BDP (2017) in their reason for refusal. However, this policy considers matters of sustainable neighbourhoods. As such, I do not consider it to be relevant to the main issues.

Conclusion

23. For the above reasons, the proposal would be contrary to Policy PG3 of the BDP and Policies DM2, DM4 and DM10 of the DPD. Taken together, and amongst other things, these policies seek to ensure that new development is of a high quality and contributes to a strong sense of place, minimises harm to trees, it does not adversely affect the amenities of occupiers and neighbours and that separation distances between buildings provide sufficient usable outdoor space. The proposal would also fall short of the requirements of the Council's Supplementary Planning Documents 'Places for Living' (2001) and 'Mature Suburbs' (2008) in terms of separation distances and local character.
24. The proposal would also fail to accord with paragraph 130 of the National Planning Policy Framework (2021) where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

25. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

Helen Smith

INSPECTOR