



Appeal Decision

Site visit made on 18 January 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/P4605/W/21/3281955

Land adjacent 114 Coney Green Drive, Longbridge, Birmingham, B31 4EJ

- 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 Metaco Commodities Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/00062/PA, dated 5 January 2021, was refused by notice dated 16 March 2021.
 - The development proposed is outline planning application with all matters reserved for erection of a single storey courtyard cottage (mobility) with garage and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with all matters reserved for future consideration. I have therefore dealt with the appeal on this basis, treating the submitted plans as indicative.
3. The application form was initially completed incorrectly, with no description of the proposal provided with the site address erroneously being provided in its place. In the interests of clarity, I have therefore taken both the site address and description of the proposal from the Council's decision notice which I consider accurately described the development proposed.
4. I am also aware that since the Council's decision on the planning application, the Development Management in Birmingham Development Plan Document (DMB) has been adopted, superseding the previous Birmingham Unitary Development Plan (adopted 2005) (UDP). For the purposes of decision making the DMB now forms part of the development plan. The relevant policy of the DMB was referred to in the Council's decision notice and delegated report, and consequently no parties have been prejudiced by me having regard to this policy in reaching my decision.

Main Issues

5. The main issues are:
 - The effect of the development on the character and appearance of the area.
 - The effect of the development on the living conditions of occupiers of the neighbouring residential property at 114 Coney Green Drive, with particular regard to light and outlook.

- The effect of the development on future residents, with particular regard to the availability of suitable outdoor amenity space.

Reasons

Character and appearance

6. The appeal site is located within a predominately residential area, and forms part of the amenity area associated with 114 Coney Green Drive. The appeal site has been fenced off and sub-divided from No 114 and is currently in an unkempt and overgrown condition. A footpath runs immediately adjacent to the northern boundary of the site.
7. Whilst acknowledging that matters such as scale and appearance are reserved, it is apparent from both the indicative layout provided and from my site visit that the proposed development would be unable to be suitably accommodated within the appeal site. The dwelling would be situated in very close proximity to the footpath which runs between Coney Green Drive and Elder Close, with little distance afforded between the dwelling and the site boundaries. Consequently, I consider that the development would appear a cramped and overly dominant form of development, particularly when viewed from the adjacent footpath.
8. Furthermore, I consider that the principle of erecting a dwelling on the site would be at odds with the prevailing pattern and form of development in the area, as given the constricted plot size, any development would result in a cramped appearance that would appear out of keeping and have little relationship with the nearby properties on Coney Green Drive or Elder Close.
9. I therefore conclude that the proposal would cause harm to the character and appearance of the area and conflict with Policy PG3 of the Birmingham Development Plan (adopted January 2017) (BDP) and guidance contained within the Places for Living Supplementary Planning Guidance (adopted March 2001) (SPG), which amongst other things, seek to ensure that proposals reinforce or create a positive sense of place and local distinctiveness.

Living conditions

10. The indicative plan provided shows the proposed single storey dwelling located in close proximity to the boundary with No 114. Whilst this is only indicative, given the narrow nature of the site it would seem clear that regardless of its orientation any dwelling constructed on the land would be a similar distance from the boundary.
11. I noted during my site visit that the ground floor rear elevation of No 114 contained a conservatory and a window. It was clear from my visit that any dwelling erected upon the appeal site would protrude beyond the rear elevation of No 114 and would therefore be experienced within views from these windows and openings. Consequently, given its siting and proximity I find that the proposal would have an adverse effect on outlook from No 114.
12. The appellant contends that the Council is incorrect in its assessment of the 45-degree code. The application of the code was a requirement of paragraphs 8.39 – 8.44 of the now superseded UDP. The relevant BDP and DMB policies do not contain any requirement to strictly apply the 45-degree code, although they do require that the impacts of development on sunlight, daylight and

overshadowing will need to be assessed. The Council's 45-degree code supplementary planning document (SPD) also remains as guidance.

13. I acknowledge that a solid boundary treatment of approximately 1.8 metres in height exists between No 114 and the appeal site, however from the evidence available it appears apparent that the proposal would conflict with the guidance contained within the SPD in relation to the 45-degree code and subsequently result in a loss of light to No 114.
14. I note the appellant's reference to BRE Appendix F which provides methods and criteria for calculating daylight and sunlight availability for buildings. However, the information provided merely sets out these methods and criteria and fails to provide any specific data or calculations in relation to the appeal proposal. In the absence of any in depth analysis and given the non-compliance with the Council's 45-degree code SPD, I consider that it has not been satisfactorily demonstrated that the proposal would not result in an unacceptable loss of daylight to No 114.
15. I therefore conclude that the proposal would result in an unacceptable level of harm being caused to the living conditions of occupiers of No 114, with particular regard to light and outlook. It would therefore conflict with Policy PG3 of the BDP and Policy DM2 of the DMB which seek to ensure developments do not result in unacceptable adverse impacts on the amenity of neighbouring properties including outlook and light.

Availability of outdoor amenity space

16. The Council accepts that the development would result in the minimum garden size as set out in the SPG being met, both in regard to the new dwelling and No 114. However, from the indicative site layout it is apparent that much of any amenity space provided would be relatively narrow pieces of land sandwiched between the dwelling itself and the sites boundary treatments. I consider therefore that the useability of this space is likely to be very limited. An area of amenity space is also shown located towards the eastern part of the site adjacent to Elder Close. However, the close proximity of the footpath, highway and three storey properties to this part of the site, would result in it being overlooked harming the living conditions of future occupiers.
17. Accordingly, the proposal fails to demonstrate that an appropriate amount of useable and functional private amenity space would be provided. The proposal would therefore conflict with Policy PG3 of the BDP, Policy DM2 of the DMB, and guidance contained within the SPG which, amongst other matters, seeks to ensure that private external spaces are functional, useable and do not result in unacceptable adverse impacts on the amenity of occupiers.

Other Matters

18. I have given due regard to the fact that the proposal would deliver an accessible dwelling suitable for either the elderly or persons with disabilities, and the social and economic benefits that would arise. However, these benefits do not outweigh the harm I have identified that would be caused to the character and appearance of the area, and on the living conditions of occupiers of No 114 and the appeal property itself.

Conclusion

19. The proposal would conflict with the development plan and there are no material considerations which would outweigh this finding. For the reasons given above the appeal is dismissed.

David Jones

INSPECTOR