



Appeal Decision

Site visit made on 21 March 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Appeal Ref: APP/P4605/W/21/3281188

Rear of Petersbourne Court, Petersfield Road, Hall Green, Birmingham B28 0AS

- 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 Thahar Sardar against the decision of Birmingham City Council.
 - The application Ref 2021/04791/PA, dated 31 May 2021, was refused by notice dated 18 August 2021.
 - The development proposed is described on the application form as 'change of use and extend (residential)'.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Thahar Sardar against Birmingham City Council which is the subject of a separate decision.

Preliminary Matters

3. Following the refusal of the planning application, the Development Management in Birmingham Development Plan Document (DMB) was adopted in December 2021. This superseded the saved policies of the Birmingham Unitary Development Plan (2005). The main parties have had the opportunity to comment on the relevant policies of the DMB through the appeal process and I have had regard to any comments received and to the DMB in my decision. In addition, I note that the Birmingham Parking Supplementary Planning Document (SPD) was adopted in November 2021 and replaced the Car Parking Guidelines (2012).

Main Issues

The main issues are:

- The effect of the development proposed on the character and appearance of the area, including the setting of Petersbourne Court, a non-designated heritage asset;
- The effect of the proposal on the living conditions of residents of Peterbourne Court in relation to external amenity space;

- Whether the proposal would provide satisfactory living conditions for future occupiers of the proposed development, having regard to privacy, external amenity space and internal space;
- The effect of the proposal on nearby trees; and
- The effect of the proposal on the highway and pedestrian safety, having regard to parking provision.

Reasons

Character and appearance

4. The appeal site relates to a detached single storey building which is located to the rear of Petersbourne Court, a blocks of flats on the northern side of Petersfield Road. As I understand it, the building the subject of the appeal has been used as an office in association with the flats but is currently vacant. It is located at the edge of an external communal amenity area which is bounded by hedges and fences. Beyond the communal garden to the south west is a large block of garages and an area of hardstanding, used partly for car parking. To the north west the site is bounded by the rear gardens of dwellings on Cambrai Drive.
5. The character of the surrounding area is largely residential with a more mixed character further to the east on Stratford Road. Aside from Petersbourne Court and the recently constructed residential development to the east of the appeal site, the area is characterised by semi-detached and detached two storey dwellings fronting roads and set within spacious plots. Mature trees and planting in the gardens of neighbouring properties together with the many street trees on Petersfield Road results in a verdant character.
6. The flats at Petersbourne Court are of distinctive appearance being a series of two storey blocks in the art deco style. There is no dispute between the main parties that Petersbourne Court is of sufficient historic architectural interest so as to merit being considered as such. The flats have a staggered building line relative to the road frontage and are set back behind well tended front gardens and a small car park to one side. In my view, the significance of this non-designated heritage asset lies in the attractive and largely uniform front elevations comprising a regular pattern of large horizontal window openings, projecting front entrances, curved corners and a pleasant verdant setting.
7. The proposed development comprises the conversion and extension of the former office building to create a single storey two bedroom dwelling. The existing building is of modest dimensions reflecting its origins as an ancillary office building to the flats and it is situated at the edge of garden in the far north eastern part of the grounds, such that it has an unassuming presence.
8. Set behind the existing flats within the garden and lacking a street frontage, the proposed dwelling would have more the appearance of a large domestic outbuilding than a stand-alone dwelling. I saw no evidence of other such backland development in the surrounding area during my visit. Consequently, the siting of the dwelling and its scale and design would not reflect the character of existing frontage development in the area, including the block of flats and two storey dwellings.

9. The submitted plan indicates extensions to the front and side of the building and a corresponding increase in its ridge height. Therefore, the harm arising from the uncharacteristic siting of the dwelling would be exacerbated by its greater footprint and height, which would increase its prominence and further emphasise the failure of the development to respect the prevailing pattern of development. Moreover, the increased coverage of the building would encroach on the rear garden of the flats, which forms part of and contributes towards its setting. Its scale and appearance would not reflect that of the blocks of flats or nearby two storey dwellings. Furthermore, the extension to the south-eastern side of the building would have a mono-pitched roof which would appear as a high blank brick wall when viewed from the front, and would be an unsympathetic and incongruous addition.
10. Although domestic outbuildings within the gardens of the existing dwellings and the block of garages to the rear of the flats provide some built form to the rear of the properties, these read as ancillary structures to the frontage properties and do not provide justification for the appeal proposal. The proposal would therefore appear out of context with its surroundings and, as a discordant feature within its immediate surroundings, would result in some harm to the setting of the non-designated heritage asset, albeit such harm would be limited given the location of the proposal to the rear of the flats.
11. Due to its position to the rear of the existing flats, the proposal would be largely screened from nearby public vantage points. However, the proposal would appear as a prominent and intrusive feature within its immediate setting and from numerous neighbouring dwellings and their rear gardens. The lack of public views of the proposed dwelling does not justify the harmful effect it would have on the established pattern of development in the area.
12. For the above reasons, I conclude that the proposal would be harmful to the character and appearance of the area, including the setting of Petersbourne Court, a non-designated heritage asset. As such, it would be in conflict with Policies PG3, TP12, TP27 and TP30 of the Birmingham Development Plan (2017) (BDP), Policy DM10 of the DMB, the Council's Mature Suburbs Supplementary Planning Document (2008) (SPD) and the Council's Places for Living Supplementary Planning Guidance (2001) (SPG). Amongst other things, these policies and guidance seek to promote high quality design which responds to local distinctiveness and context, while BDP Policy TP12 seeks to ensure that development protects or enhances the historic environment including non-designated heritage assets. The proposal would also fail to comply with national policy outlined in the National Planning Policy Framework (the Framework) as well as the National Design Guide (NDG), where these seek high design quality, while the Framework also seeks to sustain the significance of heritage assets.

Living conditions of neighbouring occupiers

13. There have been objections to the proposal from nearby residents concerned that it would restrict their use of the communal garden to the rear of the flats. That space is laid to lawn with access provided by pathways from the rear of the flats and from the large area of hardstanding.
14. Although the communal garden is already overlooked to some extent from the rear of the flats and from the hardstanding, the bedroom windows to the front and north western side elevation of the proposed dwelling would directly

overlook this area at close range, which would be intrusive and harmful to the privacy of the garden. While there is also a large garden to the front of Petersbourne Court, this is not private from the road.

15. The submitted plans suggest that the appeal building would be extended to the side and front which would inevitably encroach on the communal garden, already a relatively small area for the number of occupiers of the flats. The combination of its reduced size and loss of privacy to the communal garden would render it a significantly less useable space, which would be to the detriment of the living conditions of the occupiers of the flats.

Living conditions of future occupiers

16. The Places for Living SPG requires that new two bedroom dwellings are served by 52 sq.m of garden space. The submitted plans do not indicate a garden area for the proposed dwelling and it is unclear whether future occupiers would be served by a dedicated garden space or whether they would use the existing communal garden. Given that the dwelling would give access to and directly face the communal garden, in my view it is likely that future occupiers would use the communal garden to some extent. However, as a communal area it would not provide future occupiers with a private external amenity space. Although the SPG does not expressly require private external amenity space, that is nevertheless the clear implication (as otherwise multiple dwellings could all make use of the same space). Thus it has not been demonstrated that future occupiers would be served by adequate private external amenity space.
17. The Technical housing standards – nationally described space standard March 2015 (NDSS) and Policy DM10 of the DMB require that a single storey two bedroom, four person dwelling provide a minimum floorspace of 70 sq.m. Based on the evidence before me, the proposed dwelling would provide a floorspace of about 46 sq.m, which falls well short of the minimum requirement. The smaller of the two bedrooms would have a floor area of around 9.4 sq.m which would also fail to comply with the NDSS and Policy DM10 requirement for a double bedroom to provide a floor area of at least 11.5 sq.m.
18. Furthermore, the kitchen and dining room would not be served by any windows and would therefore have little or no outlook and receive insufficient daylight. The proposed internal space would not be sufficient to meet the day to day needs of future residents and would create an oppressive and confined form of development. Moreover, the bedroom windows of the dwelling would be overlooked from the communal garden and would therefore lack privacy.
19. I conclude that the appeal scheme would be harmful to the living conditions of the occupiers of the Petersbourne Court with regard to its effect on the existing external amenity space; and also that it would not provide satisfactory living conditions for future occupiers of the proposed development, having regard to privacy, external amenity space and internal space. Accordingly, the proposal would conflict with Policies PG3 and TP27 of the BPD, which, amongst other things, require development to demonstrate high design quality, including ensuring that private external spaces are functional. It would also be contrary to Policies DM2 and DM10 of the DMB and guidance contained in the Places for Living SPG and the NDG, which seek to ensure that development protects the amenities of existing and future occupiers and encourage good quality

residential accommodation. Conflict would also arise with the Framework, where it requires a high standard of amenity for existing and future users.

Trees

20. The appeal site is situated within proximity of a number of mature trees, notably a large tree located in the grounds of a neighbouring property, 1237 Stratford Road, the branches of which partly overhang the appeal building. While there is no indication that the trees are protected, in combination with the trees to the front of Petersbourne Court, they provide pleasant, verdant surroundings which contribute positively to the setting of the non-designated heritage asset and to the character of the area more generally. They are therefore worthy of a degree of protection in my view.
21. I note that section 197 of the Town and Country Planning Act 1990 as amended places a duty on me to ensure, whenever it is appropriate, that in granting planning permission for any development 'adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.'
22. Given the increased footprint and height of the building, it is likely that some works to the nearby trees would be required. However, a tree survey was not submitted and there are no details before me of the nature and extent of any proposed pruning works or the root protection areas of the trees, which could be affected by the proposed extensions to the building. There is no compelling evidence before me that any potential loss could be recompensed by new landscaping or planting, for example.
23. Consequently, there is insufficient information before to enable an understanding of the effects of the development on the long term health of the trees. In addition, the perceived safety risk by future occupiers from falling branches together with the inconvenience of seasonal leaf litter could lead to pressure to fell the trees. Any harm to the health of the trees could lead to their deterioration or loss, with resulting adverse impacts to the setting of the non-designated heritage asset and the character and appearance of the area.
24. I therefore consider that it has not been demonstrated that the proposal would not have a harmful effect on the nearby trees. As such there would be conflict with Policies PG3 and TP7 of the BPD, which together seek high quality design that contributes to a strong sense of place and protect trees and woodlands. It would also conflict with the Framework, which recognises the important contribution that trees make to the character and quality of urban environments and seeks their retention wherever possible.

Highway and pedestrian safety

25. The application form states that one parking space is available but this is not shown on the submitted plans. The Council accept that it would be practically possible to provide adequate off-street parking provision within Petersbourne Court for use by future occupants of the proposed dwelling. I further note that the Council's Transportation adviser anticipates that the proposal would not alter levels of traffic and parking demand at this location.
26. At the time of my visit at around mid-morning on a Monday, there were several parking spaces available within the car park to the front of Petersbourne Court, the parking area to the rear which is adjacent to the site where there is also a row of garages, and a number of on-street parking spaces were also available

on Petersfield Road. Although only a snapshot in time, nevertheless this does not indicate that there is a parking problem or a significantly high demand for on-street parking here.

27. There is no detailed evidence before me to indicate that the demand for parking spaces arising from a two bedroom dwelling would be significant. Furthermore, the site is within walking distance of a number of bus stops on Stratford Road and Hall Green Railway Station is within relative close proximity. Given these alternative transport options, the occupiers of the proposed accommodation would not necessarily be dependent on private cars to meet their transport needs.
28. Taking these factors into account, the proposal would not be likely to result in any significant additional parking competition on nearby roads or any adverse impacts on highway and pedestrian safety. Accordingly, there would be no conflict with Policies PG3, TP38 and TP44 of the BPD, Policy DM14 of the DMB, or the Framework, where these require high design quality and seek to ensure the efficient, effective and safe use of the existing transport network.

Other Matters

29. Paragraph 203 of the Framework states in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal would offer potential benefits in terms of providing a new dwelling in a sustainable location. It would also have economic benefits through employment opportunities created during the construction phase of the development, Council tax revenue and spending in the local area by future occupants. However, the weight attributable to these matters is limited given the modest scale of the development proposed and would be outweighed by my findings as to the harm that would be caused to the setting of the non-designated heritage asset and other harms as identified above.
30. The appellant claims that there is a shortage of affordable housing in the area. However, there is no evidence to demonstrate that the proposal would meet a locally identified need for affordable housing as it is defined in the Framework or how it would be secured as such. It is also put to me that the proposal is very similar to permitted development. However, there are no details before me to enable a comparison between the appeal scheme and any possible permitted development fallback position. That limits the weight that can be attributed to this matter. The appellant considers that the condition of the building is such that it detracts from the character of the area and without the development taking place will deteriorate further. At the time of my visit, however, the external appearance of the building did not detract unduly from the area. Conversely I have found that the proposal would harm the character and appearance of the area. Therefore, these matters do not outweigh the harm identified above.
31. I also note the appellant's concerns with the way the Council has handled the application. However, that is a procedural matter which does not impact on my assessment of the planning merits of the case.

Conclusion

32. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

M Ollerenshaw

INSPECTOR