



Appeal Decision

Site visit made on 5 April 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Monday 9 May 2022

Appeal Ref: APP/P4605/W/21/3288942

50 Welsh House Farm Road, Birmingham B32 2LX

- 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 A Khan against the decision of Birmingham City Council.
 - The application Ref 2021/02680/PA, dated 24 March 2021, was refused by notice dated 21 June 2021.
 - The development proposed is a new dormer bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refer to the emerging Development Management in Birmingham Development Plan Document (DPD). However, it has been confirmed that the Development Management in Birmingham DPD was formally adopted by the Council on 7 December 2021. Therefore, the DPD now forms part of the adopted Development Plan and I attach full weight to the relevant policies of the DPD. The adoption of the DPD has also superseded the saved paragraphs of the Unitary Development Plan (UDP) (adopted 2005) so the saved paragraphs of the UDP referred to by the Council in its decision notice are no longer part of the adopted Development Plan.
3. Clarification has been sought on the red line of the proposal as 2 red line boundary plans have been submitted - a land registry title plan, which includes the dwelling of 50 Welsh House Farm Road and drawing no 1 of job no 21:1303, which excludes the dwelling of No 50. I have determined the appeal on the basis of the red line plan shown on drawing no 1 of job no 21:1303.

Main Issues

4. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposal upon the living conditions of 56 and 58 Barnwood Road, with respect to privacy, outlook and light, and;
 - whether the proposal would provide satisfactory living conditions for future occupants, with respect to the internal living accommodation and external amenity space.

Reasons

Character and Appearance

5. The appeal site consists of part of the front garden and the detached single garage associated with 50 Welsh House Farm Road. Owing to its position next to the junction with Barnwood Road, the site runs partly to the side of 58 Barnwood Road, with the existing garage sitting along the rear boundary of No 58. The site abuts the side boundary at the rear of 56 Barnwood Road. The proposal would involve the demolition of the existing garage, with the proposed dormer bungalow replacing the garage and part of the existing front garden.
6. There is a variety of housing styles in the area, with semi-detached properties, 3 storey flats and high rise tower blocks all being present. Materials also range through brick, render and pebbledash. However, I would not go as far as the appellant to describe the character as having 'unique irregular buildings along the road'. The building line and set back from the highway is one of the more consistent features of the immediate local context, especially Nos 50-56 Welsh House Farm Road and Nos 52-58 Barnwood Road. The semi-detached properties surrounding the appeal site also have a consistency in their plot size, albeit it is appreciated that there are some larger plots in the area.
7. The proposal would be situated forward of the building line along 50-56 Welsh House Farm Road. This siting, along with the contrived L-shaped form and the use of a dormer window on the front roof, would consequently make the proposal appear as an incongruous addition in the street scene, harming the character and appearance of the area. Furthermore, the plot size of the development would be uncharacteristically small for the area. The proposal would result in a cramped development, at a much higher density than the local context.
8. Whilst the use of render would be in keeping with the materials used in the area and the introduction of a hedge along the front boundary would help to mitigate the visual impact of the proposals, these would not be sufficient to overcome the harm to the character and appearance of the area identified above. Furthermore, whilst I note that the policies of the adopted development plan seek to 'create sustainable, mixed and balanced communities', as stated by the appellant, this should not be to the detriment of the character and appearance of the area.
9. The appellant states that the existing garage does not add to the local distinctiveness and as it is the only garage in the street, it is uncharacteristic to the area. They also note that the garage is unused and has flooded a number of times. However, unlike the proposal, due to its scale and position, it sits relatively unobtrusively in the streetscene. Its replacement with the proposed dormer bungalow, which would harm the character and appearance of the area, would be unacceptable.
10. The appellant also makes reference to the guidance within the Places for Living Supplementary Planning Guidance (the SPG) (adopted 2001) which states that backland development can be a useful form of infill housing, including bringing derelict land in to use. However, the SPG also states that a high standard of design and innovation is required to overcome any constraints. For the reasons given above, it is not considered that the proposal would achieve the high standard of design required by the SPG.

11. The appeal scheme would therefore cause harm to the character and appearance of the area. It would conflict with the objectives of Policies PG3, TP27 and TP30 of the Birmingham Development Plan (BDP) (adopted 2017), and guidance within the SPG, which together seek to ensure that new development demonstrates high design quality, reinforces local distinctiveness, and considers the site and its context with regards to density. The proposals would also be contrary to the principles within Chapter 12 of the National Planning Policy Framework (the Framework) 2021 which seek good design sympathetic to the local area.

Living Conditions of 56 and 58 Barnwood Road

12. Owing to the appeal site abutting the side boundary of the rear garden of 56 Barnwood Road and wrapping around the rear and side of 58 Barnwood Road, the proposal would have a very close relationship with these neighbouring properties.
13. The ground floor living room patio doors and the rear dormer window would look on to the shared boundary with No 56. Both of these would fail to comply with the 5 metres per storey separation distance required between windowed elevations and neighbouring private amenity space as set out in the SPG. It may be possible to screen any overlooking from the ground floor patio doors in the form of a suitable boundary treatment. However, due to the dormer window being at first floor level, in close proximity to the boundary with No 56 and with direct views over the foot of No 56's rear garden, the proposed development would result in an unacceptable level of overlooking, harming the privacy of No 56.
14. The proposed L shaped dwelling wraps around the side and rear of No 58. I acknowledge that No 58 is situated at a slightly higher elevation than the appeal site. However, the proposed development would be situated very close to the shared boundary with No 58. The proposal would bring the built development on the appeal site closer to No 58 and at a much greater height and scale. Consequently, as a result of the scale and proximity of the proposed development, it is considered that the proposal would have an unacceptable overbearing effect upon the outlook from both the back garden and rear habitable rooms of No 58.
15. Due to the distance between the proposed bungalow and the rear elevation of No 58, as well as taking in to account that the proposal would be slightly set down from No 58, it is not considered that the proposal would substantially reduce the amount of daylight and sunlight reaching No 58 to an unacceptable level.
16. I acknowledge the existing boundary fences with Nos 56 and 58. However, it is considered that the presence of these boundary fences would not overcome the harm that the proposed dwelling would have on the living conditions of both No 56 and No 58.
17. The proposal would therefore be harmful to the living conditions of the occupants of 56 Barnwood Road, with respect to privacy and 58 Barnwood Road, with respect to outlook. It would be contrary to Policies PG3 and TP27 of the BDP, which seek to promote good place making and sustainable neighbourhoods. It would conflict with Policies DM2 and DM10 of the Development Management in Birmingham DPD which together seek to ensure

that development does not result in unacceptable adverse impacts on the amenity of neighbours, including visual privacy and overlooking, and aspect and outlook. It would also fail to meet the guidance within the SPG which seeks to protect neighbouring amenity. It would also conflict with paragraph 130 (f) of the Framework which states that development should have a high standard of amenity for existing users.

Living Conditions for the future occupants

18. Policy DM10 of the Development Management in Birmingham DPD requires compliance with the National Described Space Standards (NDSS). The proposed bungalow would consist of a 2 storey, 2 bedroom bungalow. Whilst there are some discrepancies in the evidence as to the Gross Internal Area of the proposal, the figures provided by both parties fall short of the 70 square metres set out by the NDSS. As a result of this shortfall, the proposal would fail to provide a suitable level of living accommodation for the future occupants.
19. A small area of private amenity space would be provided to the rear, measuring approximately 16 square metres. This would fall well short of the 52 square metres garden size required by the SPG for a 2 bedroom house. The appellant has suggested that the front garden area could also be considered as private amenity space and I note they state that a hedge would enclose this front area. However, I have concerns over the quality of the amenity area to the front as it would be adjacent to the highway and would be less secluded than a back garden. Nevertheless, even with the front amenity area taken into account, which would measure approximately 30 square metres, the amenity space would still fall short of the SPG requirement for a 2 bedroom house.
20. The proposal would therefore fail to provide satisfactory living conditions for future occupants, with respect to the internal living accommodation and external amenity space. It would be contrary to Policies DM2 and DM10 of the Development Management in Birmingham DPD, which together seek to ensure that development would have access to sufficient, high quality and useable amenity space. Policy DM10 also sets out the NDSS required on new development, which the proposal would fail to achieve. It would also conflict with Policies PG3 and TP27 of the BDP, which seek to promote good place making and sustainable neighbourhoods. It would fail to meet the guidance within the Places for Living SPG with regards to the minimum private amenity space required on new development and would also conflict with paragraph 130 (f) of the Framework, which states that development should have a high standard of amenity for future users.

Other Matters

21. The appellant refers to possible amendments as part of their evidence. This includes lowering the ground level of the proposal so that it would align with No 50, replacing the rear dormer with a rooflight and changing the downstairs bedroom to a reception room so that the proposed development would be a 1 bedroom bungalow. Some of these changes may reduce or eliminate some of the harm that I have identified. However, no formal amended plans have been submitted and the possible amendments currently lack sufficient detail for me to assess them fully. Furthermore, it would not be possible to ensure the downstairs bedroom would remain as a reception room in perpetuity. I also acknowledge the communication the appellant has had with the Council post

decision with regards to these amendments but note that the Council has advised that that the 'likelihood of gaining it [planning permission] is very low'. I have determined the appeal on the basis of the plans that were considered at the time the Council made their decision and have found conflict with the development plan for the reasons set out above.

22. The appellant submitted the application following pre-application advice. However, any alleged positive feedback received as part of these pre-application discussions would not warrant allowing the appeal, given the harm that I have identified above. Furthermore, the application form states that the pre-application advice received was an 'informal planning officers view only'. I note also the appellant makes reference to the fact that a 2 storey extension to No 50 would be looked on 'favourably' by the Council and that the impact of this, as well as the impact of a single storey L shaped extension, would be greater than the proposed development. However, an extension to No 50 is not the scheme that is before me and would be subject to a separate approval. I therefore attach this potential fallback position minimal weight in my decision.
23. The appellant has also expressed concerns regarding difficulties in communicating with the Council during the application process. Whilst this must have been frustrating for the appellant, this does not materially affect my consideration of the planning merits of the appeal proposal.
24. I also note the reference to the other houses that the appellant has received planning permission for, however no further details have been provided. Nevertheless, the circumstances in each proposal are likely to be different. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons identified above.
25. Finally, I note that the Council are unable to demonstrate a five-year supply of deliverable housing sites. However, while the scheme would generate certain social and economic benefits through the provision of one dwelling, I consider that the adverse impacts of the proposal would significantly and demonstrably outweigh such benefits.

Conclusion

26. The development conflicts with the development plan as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR