



Appeal Decision

Site visit made on 26 April 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18th May 2022

Appeal Ref: APP/P4605/W/22/3291475

875 Pershore Road, Selly Oak, Birmingham B29 7LR

- 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 B Patel against the decision of Birmingham City Council.
 - The application Ref 2021/09038/PA, dated 13 October 2021, was refused by notice dated 14 December 2021.
 - The development proposed is the erection of a two-storey side extension to provide 2 No. 1 bed flats, following demolition of existing attached garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted an amended block plan (Ref.875PR/PP/03), dated January 2022, as part of the appeal showing individual gardens to each of the proposed flats. The Council was able to comment on the revised plan in its appeal statement and I consider that no other interests will be prejudiced. I shall therefore determine the appeal on the basis of the plans referred to in the application as well as the additional block plan submitted by the appellant.

Main Issues

3. The main issues are:
 - the effect on the character and appearance of the surrounding area, including the character and appearance of the Selly Park Conservation Area.
 - whether the proposed development would provide acceptable living conditions for the future occupants of the proposed development with regard to amenity space and privacy.

Reasons

Character and appearance

4. The appeal property is one of a pair of semi-detached dwellings which retain a common form and architectural detailing. Both properties are characteristic of many similar, generously proportioned period dwellings lining this part of the western side of Pershore Road, set within spacious plots with mature trees filtering views. In contrast, properties on the opposite side of Pershore Road in the immediate area are typically terraced housing set back by only small front yards with little greenery to their frontages creating a very different character to this side of the road.

5. The appeal property is located within the Selly Park Conservation Area (CA). I have paid special attention to the desirability of preserving or enhancing the CA, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This is a matter of considerable importance and weight.
6. Although the appeal building has been substantially extended on the rear, the original form and much of the historic detailing to the front elevation of the two storey dwelling has been retained, conserving the symmetry and architectural unity with the adjoining dwelling. As such, the pair of semi-detached dwellings, which are very visible from the road, make a positive contribution to the character and appearance of the CA and are reflective of other period properties in the immediate area.
7. The proposed extension at the side of the dwelling would be a substantial addition, extending the two storey building by over half its original width. Its size, form and massing would represent a dominant and disproportionate addition, making it read as a separate unit rather than a well-considered, subordinate extension. Furthermore, the proposed design of the front elevation would reinforce this visual severance from the host building due to the placement of openings and its design features. On the ground floor the two front doors would emphasise the separate function of the proposal and harm the building's legibility. On the first floor there would be a disproportionately large area of blank walling and the gable feature above the window would visually compete with one of the host building's main design features, again harming legibility. A detail alien to the host building is the horizontal design feature running across the front doors and ground floor window which would look out of place and disrupt the building's vertical proportions.
8. Despite the slight set down in the ridge height, set back of the first floor and proposed use of matching materials, the overall size, massing and design would fail to allow the proposed extension to visually integrate with the host building and would show no regard to the design and symmetry of the pair of semi-detached buildings.
9. I acknowledge that the appellant has put forward various options to deal with the site constraints, and I am mindful that the appellant considers that design could be perceived as a subjective opinion. However, I am aware of the high-quality design expectations of the 2021 National Planning Policy Framework (the Framework) and the statutory duty to preserve or enhance the character or appearance of the CA. Despite the absence of a character appraisal, it is my role to assess whether the appeal proposal will preserve or enhance that character or appearance, have a neutral impact or cause harm.
10. For the reasons stated above, the proposed extension by virtue of its size and design would have a harmful effect on the character and appearance of the surrounding area, including the character and appearance of the CA. In terms of the advice in the Framework, Paragraph 202, the harm to the conservation area would be 'less than substantial harm' and the Framework sets out the need to weigh the harm to the significance of a designated heritage asset against the public benefits of the proposal.
11. The principle of further residential development is potentially acceptable, as it is in an established residential area, makes effective use of adjoining land and there would be benefits to local housing supply and employment with the

creation of two additional flats. However, these benefits are modest due to the small scale of the development. The presence of the garage is not visually harmful to the character and appearance of the CA and its removal could not be classed as a benefit. Taking the above points together, I find that the harm to the CA deriving from the proposal would clearly and demonstrably outweigh the stated benefits.

12. The proposal would be contrary to Policy PG3 and TP12 of the 2017 Birmingham Development Plan (BDP), and Policy DM2 of the 2021 Development Management in Birmingham Development Plan Document (DMB), Supplementary Planning Guidance 'Extending Your Home' (2007) and the Framework. These policies and guidance seek to ensure that development is of a high design quality, appropriate to its location, and preserves or enhances the character or appearance of CAs.

Living Conditions

13. Whilst the existing dwelling is a House in Multiple Occupation (HMO) the proposed development would constitute two entirely separate flats which would be individual households with no shared internal communal areas and separate entrances. As such there is an expectation that the proposed flats will have suitable outdoor amenity space, and this is reflected by Policy DM10 (DMB) which requires new residential development to have adequate, useable and private outdoor amenity space appropriate to the scale, function and character of the development.
14. The block plan submitted with the appeal statement identifies two defined garden areas for each of the proposed flats, situated directly behind the proposed extension and one set behind the other, and accessed from a shared passage along the side of the main rear garden. Whilst on plan this might appear to address the private amenity issue, it is a rather awkward and contrived solution and the garden for the first floor flat is remote from the building and therefore unlikely to be used. There would certainly be no privacy for these gardens with occupants of the existing HMO passing alongside these gardens to access their own amenity space, and the occupant of the proposed first floor flat would be able to look directly across the whole of the amenity area for the proposed ground floor flat.
15. Overlooking from upper floor flats may be a common feature with such accommodation, but the lack of privacy for these gardens from most sides does not meet the expectation that new dwellings will have a degree of private amenity space. Consequently, whilst the two amenity spaces would be adequate in size, the garden of the upstairs flat is unlikely to be useable due to its location, and due to access and overlooking neither garden would have any degree of privacy. Nor would it be appropriate for the occupants of the new dwellings to share the rear garden with the other residents of the HMO as this would be combining separate households and the new occupants would not feel any 'ownership' of any private amenity space.
16. The proposed development would not provide acceptable living conditions for the future occupants of the proposed development with regard to amenity space and privacy. This would be contrary to the amenity protection aims of Policies PG3 and TP27 of the BDP, Policies DM2 and DM10 of the DMB and guidance in the 'Places For Living' Supplementary Planning Guidance 2001. It would also be contrary to the core planning principle of the Framework which

seeks a good standard of amenity for all existing and future occupants of buildings.

Other Matters

17. I have had regard to other matters raised including potential overlooking of a neighbouring property and the status of the HMO. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Conclusion

18. For the reasons given above I conclude that the proposal would be contrary to the development plan and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR