

Appeal Decision

Site visit made on 24 May 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2022

Appeal Ref: APP/P4605/W/21/3288503

Land at the rear of 173-175 Yardley Road, Acocks Green, Birmingham B27 6NA

- 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 Ian Jones against the decision of Birmingham City Council.
 - The application Ref 2021/02579/PA, dated 19 March 2021, was refused by notice dated 25 June 2021.
 - The development proposed is described as '2 x semi-detached dwellings on vacant land at the rear of 173-175 Yardley Road'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to outlook and sunlight/daylight.
 - the effect of the proposed development on the character and appearance of the surrounding area; and

Reasons

Living conditions – future occupiers

3. The proposed dwelling on the western side of the appeal site would sit alongside to the gable wall of No 1 and its associated outrigger. The wall of the outrigger reaches a height just below the ridge of No1 where it abuts the appeal site. It would project a significant distance beyond the two storey element of the proposed development, and to a lesser extent beyond the single storey element.
4. Windows in the side and rear elevations of the proposed dining room would provide alternative views. The view through the rear window would be primarily of the rear garden. However, the outrigger, would be within close proximity to the side window. It would significantly restrict views and result in an uninviting outlook from it.
5. The kitchen and dining room would have an open plan arrangement and as a result future occupiers would have the benefit from views through a number of windows. That said, the kitchen would be located towards the centre of the

proposed dwelling and views through the rear dining window would be limited as a consequence. Furthermore, views through the patio door would be significantly restricted by the high side wall of outrigger and the single storey element of the proposed dwelling. I have taken into account of the roof lights that would be provided above the dining room. Whilst acknowledging that these would provide light within the dining room, and to a limited degree the kitchen, the outlook would be high level and restricted to views of the sky.

6. In light of the above I conclude that the outrigger to No 1 would have an overbearing and oppressive impact on the amenity of future occupiers of the westernmost dwelling. As a result, these rooms would not be a pleasant place to spend time in. That existing outriggers in the area, may similarly affect neighbours properties is not a reason to allow this scheme.
7. The appellant has carried out a sun path analysis, using Google satellite imagery. I find that the methodology adopted to ascertain the impact of existing buildings on sunlight and daylight does not accord with normally accepted practises. In particular it does not provide details of the times of day or year where the windows in question would be affected or to what degree. The Council's approach also lacks a scientific basis.
8. That said, the Council's findings seem more plausible. In particular I find that the outrigger to No 1 would have a significant effect on the amount of light reaching into habitable rooms at the rear of the westernmost dwelling during the afternoon and evening. Cutting back the vegetation, as suggested by the appellant, would not make a significant difference to the amount of light reaching the affected rooms. In the absence of access to natural light, the living space would be an unpleasant space within which to spend time.
9. In light of the above, the development would not provide appropriate living conditions for future occupiers with regards to outlook and sunlight/daylight. Accordingly, the proposed development conflicts with Policy PG3 of the Birmingham Plan 2031 - Birmingham Development Plan (adopted 2017) (BDP) which, amongst other matters, seeks high quality design that responds to site conditions. It is consistent with paragraph 130 of the Framework which seeks to create places that promote health and well-being, with a high standard of amenity for existing and future users.

Character and appearance

10. The appeal site is located to the rear of properties in Yardley Road and has a frontage on Augusta Road. Augusta Road, within the vicinity of the site, is comprised of 2 and 2 ½ storey terraced houses, where the design detail, set back from the road, fenestration and roofscape contribute positively to something of a homogeneous character and appearance.
11. The proposed development would introduce a pair of semi-detached dwellings set back a comparable distance to neighbouring property. There would be small gaps between the proposed dwellings and the common boundaries with neighbouring gardens and the gable wall of 1 Augusta Road.
12. The Victorian properties within the locality would traditionally have substantial outriggers and long narrow rear gardens. That said, the area has evolved since the properties were originally built and there are examples in Augusta Road, Yardley and Wynford Road, which do not follow this pattern. The rear gardens

of the proposed development would accord with minimum garden size for family accommodation, as set out in the Places for Living Supplementary Planning Document (SPD). Any disparity between plot sizes would not be readily apparent from within the road.

13. The proposed dwellings would be marginally narrower than their immediate neighbours. However, the front elevations have been informed by the neighbouring properties, with regards design elements including the bay windows, materials, string courses and projecting bay features, and as a result the proposed development would integrate well into its context. It would not appear as an incongruous feature that would be out of character with the street scene. This is a view supported by the City Design Officer.
14. In conclusion, the proposed development would not be harmful to the character and appearance of the area. Consequently, it would not conflict with Policy PG3 of the BDP, saved paragraphs 3.14 C-D of The Birmingham Plan - Birmingham Unitary Development Plan 2005, Places for All and Places for Living. These jointly, amongst other matters, seek developments that demonstrate high quality with design that responds to the local area context. They are consistent with paragraph 130 of the National Planning Policy Framework (the Framework) which requires developments to be sympathetic to local character.

Other Matters

15. The appellant has sought to overcome issues from a previous decision and pre-application advice. However, being for 2 properties the scheme is materially different to the earlier applications and I have found the scheme before me would not provide appropriate living conditions for future occupiers.
16. The conduct of the Council with regard to development of the appeal site does not alter my findings with regard to the main issues.
17. The appeal site is in an accessible location, close to existing services and facilities, and within easy reach of public transport links. Furthermore, the location of the appeal site would mean the principle of the proposed development would be acceptable. These are not contentious matters in the appeal.
18. I have taken into account the appellants reference to a development that the Council has permitted at 12 Botteville Road. I do not have all the facts of that before me however I note that the Council's Officer report refers to a small breach of the 45 degree code with regards to its neighbour at No 10 and a single storey extension at No 14. Consequently, I cannot be certain that the circumstances of that case were the same as this appeal.
19. I agree that small sites can contribute towards housing supply and both the Framework and the BDP place emphasis thereon. The Council has advised that they are not in a housing undersupply situation in regard to the Framework. The appellant's refer to the Birmingham Development Plan Review and assert that all options should be examined so as to avoid the need to release Green Belt. In this regard, even if the Council are unable to demonstrate a 5 year housing supply, I find that the harm to the living conditions of future occupiers would significantly and demonstrably outweigh the limited benefit arising from the erection of 2 dwellings.

Conclusion

20. There are no material considerations of significance that indicate that the application should be determined other than in accordance with the development plan as a whole. For the reasons given above I therefore conclude that the appeal should be dismissed.

John Gunn

INSPECTOR

