



Appeal Decision

Site visit made on 17 May 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2022

Appeal Ref: APP/P4605/W/22/3292166

217a Birchfield Road, Birmingham, B20 3DG

- 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 Reds Housing Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/06061/PA, dated 5 July 2021, was refused by notice dated 9 September 2021.
 - The development proposed is the subdivision of a residential dwelling (Use Class C3) to create a separate office (Use Class E(g)(i)) along with retention of shop front.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I observed during my visit that the change of use had already taken place, with the configuration of the ground and first floors as shown on the submitted floor plans. Additionally, the alterations to the front of the property have also already taken place with the glazed door and window installed along with a solid roller shutter. The advertisement signage shown on the front elevation drawing however had been removed, and I have therefore dealt with the appeal on that basis.
3. Since the Council's decision on the planning application, the Development Management in Birmingham Development Plan Document (2021) (DMB) has been adopted, superseding the Birmingham Unitary Development Plan (2005). 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

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the vitality and viability of local and district centres; and
 - the living conditions of the occupiers of 217 Birchfield Road, with particular regard to parking provision and privacy.

Reasons

Character and Appearance

5. The appeal property is a two-storey former residential garage with floor space above, which previously formed part of 217 Birchfield Road to which it adjoins. The site is located within a predominately residential area comprising a mix of property types and sizes including three storey semi-detached and terraced dwellings, and flats. Other uses are located sporadically in the vicinity including a church, mosque and school. The busy A34 flyover is located directly opposite the appeal site.
6. The appeal proposal includes the removal of a garage door and subsequent replacement with a glazed door, window and solid roller shutter. The appellant has indicated that following the removal of the signage relating to the business from the building, the building has ceased to have a commercial appearance or meet the definition of a shop front in the Council's Shop Front Design Guide.
7. However, notwithstanding the recent removal of the signage and whether the alterations fall squarely within the definition of a shop front, by virtue of its design and appearance, the new frontage is inherently commercial in nature and one that would typically be found in local shopping, district or neighbourhood centres. As such the development represents an incongruous feature in the street scene which is at odds with the residential character of both the host building and the surrounding area.
8. I therefore conclude that the proposal would cause harm to the character and appearance of the area. The development would conflict with Policy PG3 of the Birmingham Development Plan (2017) (BDP) which seeks, amongst other matters, to ensure that developments reinforce or create a positive sense of place and local distinctiveness with design that responds to site conditions and the context of the local area.
9. The Council's decision notice also refers to the guidance contained within the Shopfront Design Guide Supplementary Planning Guidance (1995) (SPG). However, this guidance primarily seeks to improve the appearance of shopfronts within the City Centre or other local shopping areas and is not therefore directly relevant to the appeal.

Vitality and Viability of Local and District Centres

10. Policy TP21 of the BDP aims to maintain and enhance the vitality and viability of both local and district centres, with these centres being the preferred locations for retail, office and leisure developments and for community facilities. Proposals for main town centre uses located outside of the district or local centres listed under Policy TP21 will not be permitted unless they satisfy the requirements set out in national planning policy. The appeal site is not located within any of the identified district or local centres, the boundaries of which are contained within the Shopping and Local Centres Supplementary Planning Document (SPD).
11. The National Planning Policy Framework (the Framework) identifies offices as a main town centre use. Paragraph 87 of the Framework states that a sequential test should be applied for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations, and

only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

12. The appellant carried out a sequential test assessment which was submitted as part of the planning application. This assessment identified that there were indeed a number of premises in nearby local and district centres which were both available and suitable for the appeal proposal. The appellant contends however that whilst suitable premises are available, the cost of renting and relocating would be unsustainable for the business. I acknowledge that operating the business from a property already under its ownership would clearly avoid the additional costs associated with renting or purchasing suitable office premises.
13. A statutory declaration was submitted by the business's accountant outlining that, in his opinion, the cost of relocating and renting would be unsustainable for the business. However, very little information with regards to the actual rental cost of available premises has been provided. Additionally, no form of viability assessment has been undertaken which would definitively demonstrate whether the sequentially preferable sites would be viable.
14. Additionally, whilst the office business is predominately administrative in nature and would be unlikely to generate a significant amount of footfall, given the number of vacant premises available, locating the appeal proposal within one of the district or local centres would still have a positive impact upon the viability and vitality of the centre.
15. Therefore, in order to justify locating the appeal proposal outside of a district or local centre and departing from the development plan and national guidance, robust evidence and reasoning in support of the proposal is required. In this instance I find that there is insufficient justification and the sequential test has not been satisfied.
16. Consequently, I conclude that the proposal would conflict with Policy TP21 of the BDP and guidance contained within the SPD and the Framework, the aims of which are set out above.

Living Conditions

17. The appeal site includes the entire driveway area to the front of both No 217 and No 217a, which can accommodate parking for four vehicles. Given the size of the appeal property, the good access to public transport available, and the predominately administrative nature of the business, I consider that the parking provided would be sufficient for the appeal proposal.
18. However, the inclusion of this entire area within the appeal site would leave No 217 with no dedicated off-road parking, and with no on-street parking available in the immediate vicinity. No 217 is a three-storey property, with the submitted ground and first floor plans showing four bedrooms. A floor plan for the second floor was not provided.
19. To demonstrate that the proposal does not give rise to parking issues, Google Earth images have been provided which show between 0 and 3 vehicles parked on the site. These images however are only a snapshot in time, and do not detail matters such as the day and time that the image was taken, or whether any vehicles associated with either 217 or 217a were parked elsewhere off-site. In addition, the number of occupants of No 217 with a private car and/or the

- number of employees and customers visiting the appeal site by car is likely to fluctuate over time. They do not therefore demonstrate with any certainty that parking issues would not arise.
20. The appellant has sought to overcome this issue by obtaining permission to park a further four cars in the car park of a nearby church. This land however is outside of the appellants ownership, and there is no clear evidence of a mechanism to secure its availability in perpetuity. It is also unclear whether these spaces would be used by employees and/or visitors to the appeal site or by the occupants of No 217. Therefore, this would not represent an appropriate or long-term solution.
 21. Consequently, I find that the appeal proposal would result in a lack of suitable off-road parking provision for occupiers of No 217. Combined with the use of the driveway immediately in front of No 217 for the parking of vehicles by employees and customers of the proposed use along the general movements of these vehicles, this would result in unacceptable levels of disturbance which would be to the detriment of the living conditions of occupiers of No 217.
 22. Representations were received in support of the proposal from the current occupants of No 217, predominately stating that the use did not give rise to any noise disturbance. As an office use, I have no reason to doubt these views however, that would not overcome the lack of off-road parking provision and the subsequent general disturbance that would arise as identified above.
 23. The windows on the rear elevation of the appeal site overlook the rear garden of No 217. However, to mitigate these concerns obscure glazing has been installed into the rear facing windows of the appeal property. The installation of the obscure glazing, along with an additional requirement for these windows to be non-opening, could be secured by planning condition which would ensure that the proposed development would not result in a loss of privacy for occupants of No 217.
 24. I have identified that the proposal would result in harm being caused to the living conditions of No 217 due to insufficient parking provision. Whilst I have found that the development would not result in any undue loss of privacy for occupiers of No 217, this is a neutral outcome, insofar as it would not be harmful, would not outweigh the other harm I have identified in respect of insufficient parking provision.
 25. I therefore conclude that the proposed development would cause an unacceptable level of disturbance to the living conditions of occupiers of 217 Birchfield Road, with particular regard to insufficient parking provision. It would therefore conflict with Policy DM2 of the DMB and Policies PG3 and TP27 of the BDP. These policies seek, amongst other matters, to ensure that developments are appropriate to its location and do not result in unacceptable adverse impacts on the amenity of occupiers and neighbours.
 26. The Council's decision notice also refers to Policy TP44 of the BDP which seeks to promote the efficient, effective and safe use of the existing transport network through a variety of improvements and investments. Given the scale of the proposal and its negligible impact on the existing highway network, I do not consider the policy to be directly relevant to the appeal scheme.

Other Matters

27. The appellant has referred to other planning permissions granted by the Council for the conversion of garages to habitable rooms which also include the installation of glazing. I do not have the full details of the permissions referred to, however they appear to relate to the conversion of residential garages to habitable rooms used in connection with the existing dwelling. This differs greatly from the appeal scheme which seeks a material change of use and includes external alterations which I have found to be commercial in appearance. I do not consider therefore that the presence of these permissions justifies the harm which I have identified would be caused by the proposal.
28. The appellant also refers to planning permission Ref 2020/01670/PA granted by the Council for a main town centre use located outside of the district and local centres. I do not have the full details of this permission available, however the quoted section of the Officer's report refers to the 'close proximity of other out of centre offices'. This appears to indicate a different set of circumstances to the appeal scheme. In any event, each case has to be assessed upon its own merits and accordingly the presence of this planning permission does not justify the harm which I have identified that the appeal proposal would cause.

Conclusion

29. The proposal would conflict with the development plan, when taken as a whole, and there are no material considerations, including the approach of the Framework, which would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

David Jones

INSPECTOR