



Appeal Decision

Site visit made on 4 April 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2023

Appeal Ref: APP/P4605/W/22/3311966

Former Garage Block, Charlecott Close, Moseley, Birmingham, B13 0DE

- 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 Jacoby Place HL Ltd against the decision of Birmingham City Council.
 - The application Ref 2022/01271/PA, dated 15 February 2022, was refused by notice dated 14 July 2022.
 - The development proposed is described as 'demolition of existing garage block and erection of ten No. 2-bed apartments in two part 2-storey and part 3-storey blocks with vehicle and cycle parking and associated works.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living condition of nearby residents;
 - Whether the proposed development would provide acceptable living conditions for future residents with regards to the amount of floorspace and outlook; and
 - The effect of the proposed development on highway safety with specific regard to parking provision.

Reasons

Character and Appearance

3. The appeal site is an area of land to the rear of buildings on Charlecott Close, a predominantly residential cu-de sac. It is made up of evenly spaced blocks of flats set back from the road behind deep areas of communal open space. There is a spacious feel to the cul-de-sac which contributes positively to its character and appearance. The set back of the blocks of flats, combined with the communal gardens that surround them has helped reinforce the spaciousness of the area. In the wider area, buildings vary in their size and design, however there is consistency in that they are set back from the highway, and generally

have a presence within the street scene, which creates a strong pattern and grain of development.

4. The proposed development would introduce two blocks of flats to the rear of existing flats on Charlecott Close and dwellings on Willersey Road. The area of land to the rear of the flats on Charlecott Close is currently free from built form. Whilst it had been occupied by flats these were single storey and had a limited impact on the character and appearance of the area. The introduction of two three storey blocks of flats into this area would be in marked contrast with the existing pattern of development, reducing its spaciousness and jarring with its consistency. The incongruousness of the proposal would be exacerbated by the lack of street frontage.
5. As such, it would conflict with Policy PG3 of the Birmingham Development Plan – Part of Birmingham’s Local Plan (LP) (2017) and the guidance contained within the Places for Living Supplementary Planning Guide (2001) (PfL SPG), Places for All Supplementary Planning Guidance (2001) (PfA SPG) and the Mature Suburbs Supplementary Planning Guidance (2008) (MS SPG). These together seek to ensure that development reinforces a positive sense of place and local distinctiveness. The proposal would also conflict with paragraph 130 of the National Planning Policy Framework (Framework) and the National Design Guide which seek good design sympathetic to local character and development that responds positively to the surrounding context.

Living Conditions of Nearby Residents

6. The location of the proposal would mean that it would be in close proximity to the rear boundaries of No’s 32 – 40 Willersey Road. The proposed development would provide adequate separation distances between the proposed flats and the existing dwellings on Willersey Road which combined with obscure glazing would ensure that the proposal would not have a harmful impact on nearby residents living conditions with regards to overlooking.
7. The proposed development would be located approximately 3 metres from the boundary with residential dwellings located on Willersey Road. The long rear south facing gardens would ensure the proposal would not be harmful in terms of overshadowing. However, the three-storey nature of the proposed development combined with its close proximity to the gardens of No’s 32 - 40 would create a dominant feature which would have an overbearing effect on the outlook from said gardens.
8. I have had regard to the appellant submission of developments in the locality that are located close to neighbouring properties. I have not been provided with full details; however, these appear to be two storey dwellings to the rear of other two storey dwellings. I remain to be convinced therefore they are sufficiently similar to the appeal before me..
9. The proposal would have a harmful effect on the living conditions of the occupiers of No’s 32 - 40 with particular regard to outlook. This would be contrary to LP Policies PG3 and TP27, Policies DM2 and DM10 of the Birmingham Plan 2031 – Development Plan Document (2021) (DPD) and the guidance contained within the PfL SPG and MS SPG, which seek, amongst other things, to ensure that developments do not result in unacceptable adverse impact on the amenity of occupiers and neighbours. The proposal would comply

with the advice set out in paragraph 130 of the Framework that seeks high standards of amenity for existing and future users.

Living Conditions of Future Residents

10. Much of the Council's concerns relate to the potential to use a designated office space as a bedroom. The appellant notes that these spaces have been specifically designed as offices and as such are too small to provide bedroom accommodation. Indeed, this is confirmed by the Council who state that the office spaces do not meet the requirements of the nationally prescribed space standards¹ (NDSS) to be an appropriate single bedroom. Additionally, these offices are accessed via the main bedroom and are not a separate room. I have therefore considered these rooms as office space and not bedrooms.
11. The Council has calculated that two of the proposed flats (A.4 and B.3) would have a gross internal area of 64 and 65 square metres respectively. The NDSS provides guidance on the minimum internal space requirements for dwellings, with 61 square metres set as the minimum standard for a two-bedroom, three-person single storey dwelling. As such there would be no shortfall in internal space in this regard.
12. With regards to bedroom sizes, the single bedrooms in six of the proposed flats (A.2, A.4, A.5, B.1, B.3 and B.5) have a shortfall in regard to their width. The NDSS states that in order to provide one bedspace, a single room should have a floor area of at least 7.5 square metres and it at least 2.15 metres wide. All of these bedrooms would exceed the overall floorspace requirement however there is an 8cm shortfall in the width of each room.
13. The shortfall in floorspace according to the Council's measurements is noted, however this is only a very minor one, and the plans demonstrate that adequate accommodation, in the form of living area, kitchen, bathroom, en-suite, storage and master bedroom can be provided.
14. Due to the proximity of the proposed development to nearby properties the windows on the rear elevations would be obscure glazed in order to safeguard the living conditions of nearby residents. Four of the proposed flats (A.4, A.5, B.3 and B.5) would have a dual aspect open plan kitchen/living area with windows, an obscure glazed window providing light into the kitchen at the rear and double-glazed door with access to a balcony at the front.
15. The two windows would provide natural light into the kitchen/living area. This would ensure that the habitable rooms in these flats would be sufficiently naturally lit. Whilst due to the obscure glazing there would be a limited outlook from the rear of the building, further outlook from the unit would be provided via what would be glazed double door to the front. Additionally, whilst the rear ground floor kitchen/living windows would not be obscure glazed, they would be in close proximity to the boundary fence. Whilst this would limit the outlook, again outlook would be provided via what would be glazed double door to the front. This would be sufficient.
16. The proposed development would therefore have an acceptable effect upon the living conditions of future occupiers. This would comply with LP Policies PG3 and TP27, Policies DM2 and DM10 of the Birmingham Plan 2031 – Development Plan Document (2021) (DPD) and the guidance contained within the Pfl SPG,

¹ Technical housing standards – nationally described space standard (March 2015)

which seek, amongst other things, to ensure that developments are of a high design quality and do not have an unacceptable adverse impact on the amenity of occupiers. The proposal would comply with the advice set out in paragraph 130 of the Framework that seeks high standards of amenity for existing and future users.

Highway Safety

17. At the time of my site visit a small number of cars manoeuvred into and out of Charlecott Close. I appreciate my visit provided only a snapshot of highway conditions. Nevertheless, based on my observations, it would be reasonable to conclude that the levels of traffic would increase at peak hours when traffic is at its heaviest and on street parking would increase when people returned from work. I also noted during my site visit that Charlecott Close is a private road with very limited parking opportunities.
18. In their submission the Council notes that 1.4 car parking spaces per two-bedroom flat would be required in this location. The proposed development is for 10 two-bedroom flats and would therefore be required to provide 14 parking spaces. The submitted plans details 14 parking spaces to the front of the proposed flats and sufficient space to access and egress them.
19. The Council's concern predominantly relates to the potential use of office space as a third bedroom. However, as I have noted above, these rooms are not suitable for use as a bedroom as they do not meet the requirement of the NDSS and are only accessed through the main bedroom. Additional parking spaces to accommodate these rooms are therefore not required and the proposed development would make sufficient provision.
20. For the above reasons the proposal would not harm highway safety. The proposal would therefore comply with LP Policies PG3, TP27 and TP30, DPD Policies DM2, DM10, DM14 and DM15 and the guidance contained within the Birmingham Parking Supplementary Planning Guidance (2021), which seek, amongst other things, to ensure that developments ensure that the safety of highway users is properly taken into consideration and that any new development would not have an unacceptable adverse impact on highway safety. The proposal would also comply with paragraph 111 of the Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

Other Matters

21. I have had regard to the planning history of the appeal site, in particular the approval² of a two-storey building to accommodate four flats, although I have only been provided with limited details. Nevertheless, that application related to one two-storey building. The appeal before me relates to the construction of two three-storey buildings, as such the issues are not directly comparable
22. The Council cannot demonstrate the supply of housing sites required by the Framework. I am therefore taken to paragraph 11 of the Framework. The most important policies would be out of date. As the erection of ten flats, the proposal would make a limited contribution to the housing undersupply. The scale of the scheme would accordingly limit its associated socio-economic benefits. Paragraph 130 of the Framework requires good design sympathetic to

² 2018/06742/PA

local character and developments that have a high standard of amenity for existing users. I have found that the proposal would cause unacceptable harm on the character and appearance of the area and on the living conditions of nearby residents. I ascribe significant weight to these harms which would be long lasting. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

23. For the above reasons, there are no relevant material considerations, including the approach of the Framework and worthy of sufficient weight, which would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR