



Appeal Decision

Site visit made on 16 May 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2023

Appeal Ref: APP/P4605/W/23/3314254

44 Walmley Ash Road, Sutton Coldfield, Birmingham B76 1JA

- 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 Mark Jones against the decision of Birmingham City Council.
 - The application Ref 2022/06690/PA, dated 26 August 2022, was refused by notice dated 17 October 2022.
 - The development proposed is the erection of new dwelling and associated works.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is situated in a predominantly residential area, generally characterised by two storey dwellings which provide a strong degree of uniformity in the scale of the built form. Although there is variation in the design and appearance of these properties, the consistent front alignment and the set back from the highway, behind front garden and parking areas, gives the area a spacious, verdant character.
4. The proposal differs from other dwellings in that it would have the appearance of a single storey building. Whilst this would maintain a visual gap between the two storey dwellings to either side, its height as well as its narrower form would result in a structure that would not reflect the scale and mass of the two storey buildings that predominate in the area.
5. I appreciate the proposal has been designed to reflect a garage conversion, and that it is not uncommon for there to be single storey garages or outbuildings in the locality. However, the appeal proposal is for a new dwelling, with its own curtilage and parking area. This alongside the provision of boundary treatment such as those indicated on the submitted plans, would result in the proposal being read separately from the dwelling at 44 Walmley Ash Road, despite the close proximity between them. This would have a detrimental impact on the uniform characteristics of the area, where despite the presence of some bungalows, two storey properties predominate. Although certain details such as the materials could be addressed by condition, this would not outweigh the impact that would be caused by the scale and form of the proposal on the character and appearance of the area.

6. I therefore conclude that the proposed development would have an adverse impact on the character and appearance of the area. As such, it would conflict with Policies PG3 and TP27 of the Birmingham Development Plan and Policy DM2 of the Development Management in Birmingham Development Plan Document, which seek, amongst other matters, high quality design that reinforces a positive sense of place. It would also be contrary to Paragraph 130 of the National Planning Policy Framework (Framework) and the Birmingham Design Guide Supplementary Planning Document (September 2022) (Design Guide SPD) which seek to ensure that proposals deliver good design. Reference has been made to other Supplementary Planning Documents, but these have been superseded by the Design Guide SPD.

Other Matters

7. I note the supportive comments by the Council's City Design Officer and an interested party, as well as reference to pre-application discussions. This appeal however follows the Council's formal decision, and I can confirm that I have dealt with it on its own merits.
8. The appellant has referenced a garage that existed on the site previously and that a garage could be constructed using Permitted Development rights. Be that as it may, such a garage would be incidental to the existing dwelling and not a separate dwelling. As such, it would not have the same or greater impact than the proposal on the character and appearance of the area. This therefore limits the weight that I can attribute to the fallback position.
9. Reference has been made by the appellant to their family's human rights. Although I note the submissions in relation to the unauthorised dwelling to the rear, this development, which is for a proposed dwelling would not lead to the loss of a home and it would not therefore interfere with those rights.
10. The proposal would provide an acceptable standard of accommodation for future occupants including suitable garden areas, bin storage and parking provision. The development raises no concerns in relation to highway safety, flood risk, or in terms of the impact on neighbour's living conditions. These are however neutral matters and not considerations which weigh in favour of the proposal.

Conclusion

11. The appellant has set out that the Council is unable to demonstrate a 5 year deliverable supply of housing. This is acknowledged by the Council in their appeal submission, although details on the level of shortfall has not been provided. The relevant policies of the development plan are therefore deemed to be out of date and, in light of Paragraph 11 d) ii) of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. I have found that the proposed development would be harmful to the character and appearance of the area. This harm would be long lasting and would be contrary to the objectives of the Framework. I ascribe this substantial weight.
13. The Framework seeks to significantly boost the supply of housing and promote the use of previously developed land. The provision of a new dwelling in an accessible residential area therefore weighs in favour of the appeal and would

contribute to meeting housing needs in the area. The proposal would also incorporate measures including an electric vehicle charging point and has the potential to make biodiversity enhancements. However, as the proposed development would provide a single dwelling, it would make a contextually small contribution to the Council's housing supply and in respect of the other benefits set out.

14. With this in mind, I attach limited weight to the appeal scheme's benefits. As such, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.
15. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, I conclude the appeal should be dismissed.

F Rafiq

INSPECTOR