



Appeal Decision

Site visit made on 18 April 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2023

Appeal Ref: APP/P4605/W/22/3313140

Land adjacent to 11 Stones Green, Birmingham B23 5RB

- 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 Humanify against the decision of Birmingham City Council.
 - The application Ref 2022/05812/PA, dated 20 July 2022, was refused by notice dated 29 September 2022.
 - The development proposed is originally described as "Retention of 4no. 1-bed flats (from erection of 2 detached dwelling houses 2020/00865/PA as approved). Retention and alterations of hard and soft landscaping with remedial works to the driveway."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address on the application form is 7 Stones Green. However, No.7 is one of the units that has been built and the address does not include the other built unit No.9. The Council's address used on the decision notice more accurately describes the location of both properties (namely Nos.7 and 9) as being adjacent to existing property No.11, which I saw to be the case on my visit. The appellant uses the Council's address on their appeal form. Therefore, in the heading above I have used the address taken from the appeal form and the Council's decision notice.
3. The application is part retrospective as the units have been built and are occupied, as was evident on my visit. However, I have dealt with the appeal on the basis of the submitted plans and planning merits of the case.

Background and Main Issues

4. Planning permission¹ was granted to erect 2no. single storey dwellings (a 2-bed unit and a 3-bed unit) with accommodation in the roof space with dormer windows (the 'approved scheme') in Stones Green, a cul-de-sac in a predominantly residential area.
5. The approved plans showed there would be a shared block-paving driveway area in front of both dwellings, but each dwelling would have its own rear private garden laid to lawn and patio.
6. According to the appellant the dwellings were never occupied and instead each building was subdivided into two, creating 4no. 1-bed dwellings. The internal layout, shared driveway and rear gardens have not been laid out in accordance

¹ Local Planning Authority ref: 2020/00865/PA – approved 4 March 2020

with the previously approved plans, but submitted plans show what has been installed.

7. The main issues in this appeal are:

- Whether the proposed surfacing materials used for the driveway and private outdoor garden spaces would provide an appropriate quality landscape for occupants, and
- Whether the proposal would provide acceptable living conditions for occupants of No.7 with regard to internal living space.

Reasons

Landscape quality

8. The shared driveway that has been created covers a similar area and configuration as the shared driveway shown for the approved scheme. The main difference is the surface material. The plans for the approved scheme showed the shared driveway would be surfaced with 'permeable block paving'. The hard surface that has been laid is grey concrete which has a sheen and a pattern imprinted into it.
9. Block paving generally has a softer and more natural appearance. Furthermore, the permeability of the block paving would assist with reducing surface water run-off, particularly as the site slopes down to the road. A drainage channel was shown fitted at the edge of the highway.
10. The patterned concrete that has been laid is intended to replicate 'crazy paving' and attempts to break up the expanse of a large single surface. I saw that areas of the concrete were already breaking up, causing me to question the quality of the material used and/or quality of the building work. However, there is nothing to guarantee the workmanship or longevity of block paving.
11. When comparing what has been laid to the extent and layout of the shared driveway, I do not consider that the use of the imprinted concrete driveway is unduly harmful to the character of Stones Green, which I saw had a mixture of driveway surfaces, albeit smaller in size.
12. I saw the imprinted concrete extends to the pavement edge and that the drainage channel shown on the submitted plans has not been laid. The installation of the drainage channel can be made a condition should the appeal be allowed.
13. I now turn to the outdoor private garden space to the rear and sides of the two buildings. This is shown on the plans as being one continuous space, with no separate areas dedicated to each of the units, and which I saw to be the case on my visit. The Council has not raised concerns about the amount of outdoor private space or its communal nature, but the surface material to be used.
14. The plans show the outdoor garden areas would be surfaced with artificial grass. At the time of my visit there was no artificial grass but the space had been concreted, presumably in anticipation of its laying. A narrow border had also been created along the rear garden boundary of No.9 and planted with a number of young trees.

15. Private gardens can contribute to a wider network of open spaces and provide vital green infrastructure in a high-density urban borough. Artificial grass is made from plastic and would have no ecological or biodiversity value. Fragments of plastic grass can break off and pollute soils for a long time. Artificial grass can hold a lot more heat than natural grass, which can make it hot to walk on and increase air temperatures around it. Its poor drainage and environmental credentials would adversely impact on surface water run-off, urban cooling and climate change. It would provide a harsh surface and degraded environment for users, and that would result in a poor quality landscape and amenity provision for occupants.
16. The appellant draws my attention to a number of properties where artificial grass has been used to replace natural grass in some front and rear gardens. This may well be the case and in some instances can be undertaken under permitted development² without recourse to a planning application. However, it does not set a precedent for laying a significant expanse of artificial grass as a quality landscape and amenity feature for new housing developments.
17. To address the Council's concerns the appellant has submitted an amended site layout plan showing the artificial grass replaced by natural grass and areas of slabs. This would provide a much better quality landscaped environment for occupants. The Council acknowledges this would be an improvement, but that it would not compensate for the imprinted concrete driveway.
18. Should I be minded to allow the appeal, I can impose a 'long' condition that will require the implementation of the amended landscaping scheme within a certain time period. Failure to comply with any aspect of such a condition would require the retention of four 1-bed flats to cease and the development to be implemented as per the previously approved scheme.
19. To conclude on this main issue, the concrete imprinted driveway surface that has been laid and the proposed amended landscaping scheme showing natural grass would provide an acceptable quality of landscaping that would not harm the character of the area or deny occupants a useable private outdoor garden space.
20. Accordingly, subject to the imposition of appropriate conditions to secure the implementation of natural grass, the proposal would not conflict with Policies DM2, DM4 and DM10 of the Development in Management in Birmingham Plan (the DMB). Collectively these seek to ensure, amongst other things, that residential development has sufficient useable outdoor amenity space, that landscaping is of a high quality and that the amenity of occupiers is not adversely affected. It would also accord with Principle 5 of the Birmingham Design Guide 2022.

Internal living space

21. The submitted plans are annotated to show the Gross Internal Area (GIA) of each unit. Unit 1 has a GIA of 41.7m² (which includes 2.5m² of storage and 5.6m² of circulation space to take account of the stairs leading to the bedroom). Unit 2 has a GIA of 37m² (with 2.5m² of storage and 6m² of circulation space).

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

22. The national space standards³ (the 'Space Standards') do not have a space standard for a 1 bedroom 1 person (1b1p) dwelling over 2 storeys, as in the appeal scheme. Both parties have, therefore, applied their own alternative approach and application of the Space Standards to calculate what the GIA should be for each unit.
23. The Council has used the Space Standards for a 1b2p dwelling over 2 storeys (GIA of 58m²) but then deducted the stairways and associated circulation space, thus requiring each unit to have a minimum GIA of approximately 52m². The GIA of both units clearly falls below this calculated required minimum GIA.
24. In contrast, as the units are designed for 1 person, the appellant has used the Space Standards for a 1b1p single storey unit with a shower (GIA of 37m²), but added on the circulation space of 5.6m² and 6m² respectively for each unit. This would require a minimum GIA of 42.6m² for unit 1 and 43m² for unit 2. By the appellant's own calculations, both units would have a GIA shortfall of about 0.9m² and 6m² respectively.
25. Using either party's approach both units would have an internal layout GIA below the minimum required. This leaves occupants with insufficient internal living space and hence poor living conditions.
26. Despite the overall under-provision of GIA, the appellant contends that the size of the bedrooms in both units meet the Space Standards for a single bedroom of being at least 2.15m wide and with a floor area of at least 7.5m².
27. I saw that both bedrooms had significantly sloping ceilings and geometric roof cut-outs around the dormer windows, such that I was unable to stand in parts of the rooms without ducking or tilting my head. I also saw that in both bedrooms the amount of full height wall space was very limited for the placement of furniture. In Unit 1, two single wardrobes had been placed either side of the dormer window such that one wardrobe had to be positioned partly across the window, thus reducing light and functionality of the window. The architrave around the top of the door had also been cut on an angle to fit within the sloping roof. The bedroom in Unit 2 had no full height wardrobes and instead clothes were hung on a low, free-standing rail along part of the sloping ceiling and the double bed had been positioned under the dormer window to make greater use of the limited higher ceiling space.
28. The Space Standards require that areas with a headroom of less than 1.5m are not counted as part of the GIA of the room. Following the Council's comments, for the appeal the appellant has reviewed the ceiling heights below 1.5m in height. These are shown indicatively and not to scale (in yellow) on the floor plans. Deducting the floor area the appellant calculates to be below 1.5m in height he concludes the bedroom in unit 1 has a floor area of 8.3m² and the bedroom in unit 2 a floor area of 9.2m² and hence both exceed the minimum Space Standards for single bedrooms of 7.5m².
29. However, the Space Standards state that the number of bedspaces does not imply actual occupancy or define the minimum occupancy for any room. The Space Standards also suggest that a double bed could provide 2 bed spaces. I saw that both bedrooms had a double bed such that each unit could potentially sleep 2 people. The Space Standards would then require a double room to have

³ Technical housing standards – nationally described space standards (March 2015)

a minimum floor area of 11.5m² - both bedrooms would fail in this regard even without discounting the floor area beneath a 1.5m high ceiling.

30. From my observations of the rooms and the layout of furniture, the functionality of the bedrooms is compromised. Furthermore, the lack of scaled plans showing the useable floor area once the low headroom areas have been discounted, and the potential for the rooms to be occupied by 2 people leads me to question whether the bedrooms are of an acceptable size.
31. I also saw that the lounge rooms in both units were small. Both had a sofa along one wall and one unit had a television on a low table. Due to the position of the door and access needed to cross the room to the patio doors leading to the outside garden area there was little room of any other furniture in either lounge. The kitchen for Unit 2 had been laid out differently to that on the submitted plan, with a shorter run of units, but there was just about enough space beneath the window for a small table and chairs.
32. Drawing all the above points together, I conclude that the two units in No.7 are too small and fail to provide sufficient internal floor space. Hence the development does not provide acceptable living conditions for occupants. Accordingly, the proposal would be contrary to DMB Policies DM2 and DM10 that seek, amongst other things, to ensure residential development meets the minimum Space Standards and does not result in an unacceptable adverse impact on the amenity of occupiers. It would also be contrary to Design Principle 13 of the Design Guide that has similar requirements.

Planning Balance and Conclusion

33. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites. In the absence of such, paragraph 11d) of the Framework (or the 'tilted balance') is triggered. This means that the policies which are most important for determining the application are to be considered out-of-date and that 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.
34. The proposal would make a modest contribution of 2 extra residential units to the Council's overall housing shortfall, as two dwellings have already been approved. It would also represent a more efficient use of land. As acknowledged by the Framework small and medium sites can make a contribution to meeting housing requirements as they are often built out relatively quickly.
35. The appellant owns and manages the 1-bed units as part of their charity 'Humanify' as a care provider to support vulnerable people. I appreciate that the units would go some way to providing housing for different groups, as advocated in the Framework, but I have not been presented with substantive evidence to demonstrate there is a demand for such properties. This has to be considered against the Council's housing position. The Council indicates that the Strategic Housing Market Assessment and the Housing and Economic Development Needs Assessments (HEDNA) show that most housing completions up to 2019 were in the form of 1 and 2-bed dwellings, giving a surplus of smaller units. Hence the Council has a need for 3 and 4-bedroom dwellings, which the proposal does not meet. The appellant states that the 3-bed dwellings allowed under the approved scheme were never used or

- occupied. I have not been furnished with the details of why this was the case, or the details and outcomes of their marketing, if such was undertaken.
36. In any event, planning permission runs with the land and the type of housing delivered has not been secured by a planning obligation or permission expressly sought for such housing. Therefore, it is unclear whether this would count towards the HEDNA.
37. The balancing exercise remains a matter of planning judgement. I have found inadequate internal living space overall that results in unacceptable living conditions for occupants. Even if there is a need for smaller units to meet the needs of particular housing groups, living accommodation should meet minimum standards to ensure acceptable living standards for all occupants, and a high standard of amenity is provided for existing and future users.
38. I therefore find the adverse impacts of the development significantly and demonstrably outweigh the benefits I outline above when assessed against the policies in the Framework taken as a whole. The lack of harm to the landscape and outdoor amenity space carries neutral weight in the planning balance.
39. For the reasons above I conclude that the appeal development does not accord with the development plan and the material considerations I outline above including the Framework, are not sufficient to outweigh this conflict. Consequently, the appeal should be dismissed.

K Stephens
INSPECTOR