



Appeal Decision

Site visit made on 16 January 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal Ref: APP/P4605/W/22/3299294

Land rear of 185 Hamstead Road, Birmingham, B20 2RL

- 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 H & H Real Estate Ltd against the decision of Birmingham City Council.
 - The application Ref 2022/01538/PA, dated 15 February 2022, was refused by notice dated 11 May 2022.
 - The development proposed is described as 'proposed erection of 2no. dwellings with associated external 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 a) the character and appearance of the area, b) biodiversity, and c) protected trees.

Reasons

Character and Appearance

3. The appeal site is an area of land to the rear of dwellings on Hamstead Road, a predominantly residential road, and adjacent to Parklands Avenue, a residential cul-de-sac. Hamstead Road is made up of evenly spaced detached dwellings located set back from the road behind front gardens and parking areas. Parklands Avenue is made up of evenly spaced similarly designed dwellings fronting on to the highway with parking bays opposite situated on wide plots.
4. Adjoining dwellings on Parklands Avenue face north overlooking Handsworth Gardens. There is a verdant and spacious feel to the appeal site and the area. The former of which includes overgrowth and a number of trees. Glimpses of the trees on the site are available when travelling along nearby roads between existing dwellings. The set back of the dwellings on Hamstead Road, combined with the trees that line the street aids in reinforcing the spaciousness of the area. In the wider area, buildings vary in their size and design, however there is consistency in that they generally have a presence within the street scene, which creates a strong pattern and grain of development. These elements contribute positively to the character and appearance of the area.
5. The proposed development would introduce two dwellings to the rear of No's 181 – 185 Hamstead Road. Whilst the proposed development would be accessed from Hamstead Road it would continue the building line of dwellings on Parklands Avenue. The proposed design of the dwellings would echo the three storey, two gabled, design of dwellings on Parklands Avenue, however

their increased height and width and the removal of a number of trees to facilitate the development would create a visually prominent and dominant development. The dominant appearance combined with the creation of narrower plots means that the proposed development would appear prominent and cramped and would detract from the spacious character and appearance of the area. The incongruousness of the proposal would be exacerbated by the lack of street frontage.

6. Additionally, the height and proposed glazing on the rear and side elevations of the proposal would be more akin to that of a block of flats rather than a single residential dwelling which characterises the wider area.
7. The appeal scheme would therefore harm the character and appearance of the area. Accordingly, it would conflict with Policies PG3 and TP27 of the Birmingham Development Plan – Part of Birmingham’s Local Plan (LP) (2017), Policy DM2 of the Development Management in Birmingham – Development Plan Document (2021) (DPD) and the guidance contained within the Places for Living Supplementary Planning Guide (2001) (Pfl 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) which seek good design sympathetic to local character and development that responds positively to the surrounding context.

Biodiversity

8. LP Policy TP8, requires that all development, where relevant, should support the enhancement of Birmingham’s natural environment and that proposals should clearly identify how the ongoing management of biodiversity enhancement measures will be secured. Paragraph 174 of the Framework requires that developments contribute to and enhance the local environment. Planning Practice Guidance¹ (PPG) defines biodiversity net gain as measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity gain can be achieved on-site, off-site or through a combination of on-site or off-site measures.
9. The appeal submission is accompanied by an Ecological Impact Assessment which details that moderate-adverse/high adverse impacts are likely on bats, nesting birds and hedgehogs, along with other small mammals, amphibians and pollinators. The assessment provides mitigation in the form of the timing of works, limiting external lighting, provision of bird boxes and planting. The assessment concludes that there would be a negligible loss of habitat. One of the recommendations of the assessment is for a landscape scheme to provide enhancements. The submitted planting plan is limited in its detail and provides no assessment of biodiversity net gain. I have considered whether such information could be conditioned, however I have no evidence to ascertain whether this would provide an enhancement rather than just mitigate the effects of the proposed development.
10. On the evidence before me, it appears that the need for biodiversity enhancements arises from the development. The proposal would fail to provide such. The proposal therefore fails to demonstrate that its effects on the

¹Paragraph 022, Reference ID: 8-022-20190721

biodiversity of the site and the surrounding area would be acceptable. The proposed development would be contrary to LP Policy TP8 which seeks, amongst other things, that developments support the enhancement of Birmingham's natural environment. The proposal would also be contrary to Paragraph 180 of the Framework which seek to ensure that proposals conserve and enhance biodiversity.

Trees

11. A number of mature trees are located at the boundary of the site, contributing positively to the verdant feel of the area. They screen and breaks up built development from views within Handsworth Gardens. A number of mature trees along the proposed access are covered by a Tree Preservation Order (TPO).
12. An Arboricultural Impact Assessment notes the importance of these trees to the area identifying them as Category A and B and thus of high and moderate quality. The submitted drawings details construction of parking areas and an attenuation tank within the Root Protection Areas (RPAs) of a number of these trees. I have little information on how these will be constructed. Based on the evidence before me, I cannot be certain that the development would not result in root damage, particularly given the extent of the building works within the RPAs.
13. I have considered the possibility of securing any permission with a condition to ensure that the development is constructed in a way to safeguard the Category A and B trees that bound the site. However, I do not consider it appropriate to secure the fundamentals of construction by condition without some reassurance beforehand that the methods proposed could be delivered on site.
14. Additionally, to facilitate the development the canopy of the trees would need to be lifted to one side up to 6 metres. This would have a material effect on the tree's shape and appearance, harming their appearance as an attractive and well-formed tree.
15. I cannot be certain therefore that the appeal scheme would not harm protected trees. As such, it would conflict with LP Policies PG3, TP7 and TP8 and DPD Policy DM2 which seek, amongst other things, together seek to ensure that development reinforces a positive sense of place and local distinctiveness. The proposal would also conflict with paragraph 131 the Framework which recognises the importance contribution trees make to the character and quality of urban environments.

Conclusion

16. For the reasons set out, the appeal scheme would conflict with the development plan. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise. The appeal should therefore be dismissed.

Tamsin Law

INSPECTOR