



Appeal Decision

Site visit made on 7 June 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10 August 2023

Appeal Ref: APP/P4605/W/23/3315681

29 Pipers Green, Birmingham B28 0NU

- 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 James Lavin against the decision of Birmingham City Council.
 - The application Ref 2022/05298/PA, dated 28 June 2022, was refused by notice dated 21 December 2022.
 - The development proposed is a new dwelling to the land adjacent to 29 Pipers Green.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the area; and
 - The living conditions of the occupants of No 40 Pipers Green with particular reference to overlooking and privacy.

Reasons

Character and appearance

3. The appeal site is on a corner plot in an established residential area comprising detached, link detached and semi-detached houses of predominantly the same period. Properties on Pipers Green are set back on their plots, and many have gardens and parking to the front which creates a sense of openness. The side elevation of the appeal property generally aligns with the front elevation of No 31 Pipers Green and other properties along the same stretch of road. The appeal property has a generous garden to the side. As this is devoid of any buildings it results in a strong sense of spaciousness at this prominent corner site. This feature is an important positive attribute of the character and appearance of the locality, and it complements the open character of Pipers Green.
4. I accept that the fenestration, building materials, roof profile, and overall building height would be compatible with other properties in the area. Therefore, certain elements of the proposal would be compatible with its surroundings. However, the proposed development would result in the area to the side of the existing house being occupied by a detached house of significant mass which would project further back on its plot than No 29 Pipers Green. This would harmfully erode the sense of spaciousness in this prominent location

and the proposed landscaping, which I accept would take account of biodiversity, would not adequately ameliorate this harm.

5. Further, I do not agree with the appellant's analysis of the perceived building line. Rather, it would be apparent that the dwelling would sit further forward than other houses along the same stretch of Pipers Green. This would be uncharacteristic of its setting as although the existing building line is somewhat staggered, as it follows the alignment of the road, given that houses are set back on their plots, this part of Pipers Green has a coherent building line which the proposal would harmfully disrupt.
6. I have taken account of other properties that have been brought to my attention. In relation to properties on corner plots, although there are some similarities, there are also marked differences. For example, 32 Cairn Close, is a relatively new dwelling and the relationship with the existing building line is significantly different from the situation here.
7. The other two examples involve extensions rather than a new dwelling. No 50 Pipers Green has a single storey extension where the side elevation of the two-storey host dwelling already sits forward of the existing building line. No 7 Hall Dale Close has a two storey extension where there was previously a single storey garage to the side. The appellant also highlights that No 21-31 Nairn Close have similar dimensions to the appeal property. However, these properties sit on their own plots in a row of similar properties.
8. As a result, the other properties identified by the appellant do not have the same relationship with their surroundings as the appeal property and are materially different. Therefore, these other examples, or the fact that there are examples within the wider area of other houses that breach building lines and there are a variety of different building types with differing positions on their plots relative to neighbouring houses does not justify harmful development at the appeal site. Further, the conditions suggested by the appellant would not satisfactorily ameliorate the unacceptable harm that the proposal would have on the character and appearance of the area.
9. I therefore conclude that the proposed development would be unacceptably harmful to the character and appearance of the area in conflict with Policy PG3 of Birmingham Plan 2031 – Birmingham Development Plan adopted January 2017 (BDP) which seeks to ensure that development should reinforce or create a positive sense of place and local distinctiveness that responds to local area context. The scheme would also conflict with the National Planning Policy Framework which promotes development that is sympathetic to local character.
10. The proposal would also be at odds with the guidance contained in the Birmingham Design Guide – September 2022 (BDG) which amongst other things seeks to ensure development responds to the characteristics of the surrounding area.
11. In their reasons for refusal, the Council cited Policy DM2 of the Birmingham Plan 2031 – Development Management in Birmingham – Development Plan Document adopted December 2021 (BDPD). However, as this policy deals with amenity it is not strictly relevant to this main issue.

Living conditions

12. First floor windows serving bedrooms would face towards No. 40 Pipers Green. This property also has bedrooms at first floor level. The BDG refers to minimum privacy distances which are set out in the Healthy Living and Working Manual which says there should be a 21 metre distance between building faces for a two storey dwelling, but highlights that this standard will be more strictly applied at the rear rather than the front. The separation distance falls just under the recommended distance. However, bearing in mind that the windows would be facing the front and would be separated by a road, the separation would be sufficient to ensure that there would not be an unacceptable degree of overlooking or loss of privacy.
13. I therefore conclude that the proposal would not unacceptably harm the living conditions of the occupants of No 40 Pipers Green with particular reference to overlooking and privacy and would not conflict with Policy DM2 of BDPD which seeks to avoid unacceptable adverse impacts in terms of privacy and overlooking.
14. The proposal would also not be at odds with the guidance contained in the BDG, which amongst other things seeks to ensure development would not have an unacceptable impact on the privacy of existing or new residential properties.
15. In their reasons for refusal, the Council cite Policies PG3 and TP27 of the BDP. However, as these policies deal with place making and sustainable neighbourhoods respectively and as they do not specifically deal with living conditions, they are not strictly relevant to this main issue.

Other Matters

16. The appellant points out that some of the guidance relied on by the Council was only introduced after the application was submitted. However, even if that was the case, I am required to determine the appeal based on the current development plan and the most up to date guidance and I am satisfied that the appellant has had the opportunity to make submissions based on the most up to date documents. The fact that guidance may have changed during the application process does not justify harmful development at the appeal site.
17. Further, the fact that the appellant considers that there has been some miscommunication with the Council does not alter my conclusion that the proposal would harm the character and appearance of the area.
18. The appellant highlights that no objections have been received from neighbours, local ward councillors, resident associations, or from the local MP. However, the lack of objections does not justify harmful development at the appeal site.

Planning Balance

19. The Council confirm that they are unable to demonstrate a 5 year supply of deliverable housing sites and the agreed existence of an undersupply triggers paragraph 11d) of the Framework.
20. The provision of an additional dwelling would have social and economic benefits stimulating work and trade during construction and future occupants would moderately support local services and the vitality of the community. However,

the contribution from one extra household would be very modest and the unacceptable harm the development would have on the character and appearance of the area would significantly and demonstrably outweigh these associated benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

21. I am satisfied that the proposal would not harm the living conditions of the existing occupants of No 40 Pipers Green. However, for the reasons I have set out, the proposal would unacceptably harm the character and appearance of the area. Overall, I conclude that the proposal would conflict with the development plan and the Framework taken as a whole and there are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

S Rawle

INSPECTOR