
Appeal Decision

Site visit made on 28 November 2023

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Appeal Ref: APP/P4605/W/23/3325179

Rear of 4-12 Roma Road, Tyseley, Birmingham, B11 2JN

- 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 I P Inamder against the decision of Birmingham City Council.
 - The application Ref. 2022/09367/PA, dated 19/12/2022, was refused by notice dated 8 March 2023.
 - The development proposed is demolition of existing garages and erection of two dwellings with associated amenity space, landscaping, refuse storage and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is a discrepancy between the location plan submitted during the planning application and that at appeal. For the avoidance of doubt, I have had regard to that submitted with the planning application.

Main Issues

3. The main issues are:
 - i) The effect on bats;
 - ii) The effect on the character and appearance of the area;
 - iii) Whether suitable living conditions would be created for future occupants, with particular regard to outdoor amenity space, light and outlook, overlooking and privacy;
 - iv) The effect on the living conditions of neighbouring residents, with particular regard to the potential for overlooking or loss of privacy at 606 Warwick Road and 5 and 7 Manor Farm Road;
 - v) The potential for crime and anti-social behaviour;
 - vi) The effect on highway safety, with particular regard to on-street parking demand.

Reasons

Effect on bats

4. Policy TP8 of the Birmingham Development Plan (2017) (BDP) requires that development proposals likely to affect protected species are supported by adequate information to ensure that the likely impacts can be fully assessed. This precautionary approach is important to ensure that potential impacts are

known before the grant of planning permission and to ensure that means are put in place to avoid or mitigate any harms. Relying on existing statutory protections is not sufficient.

5. The existing garages on the site are in a poor state of repair and there is potential for bats to be occupying parts of the building where access can be gained. No survey work has been undertaken and so there is not sufficient information available to assess the potential impacts on bats in this case. As such, the appeal proposal is in conflict with Policy TP8 of the BDP and planning permission should be refused for this reason alone.

Character and appearance

6. The site accommodates several brick-built garages, accessed from a narrow track off Roma Road. The garages are largely hidden from public viewpoints by the surrounding Victorian terraces. The houses on Roma Road, Warwick Road and Manor Farm Road are traditional in their form and layout, creating a uniform street pattern with buildings close to the pavement edge and gardens to the rear.
7. The existing garages, to the rear of residential properties, are somewhat of an anomaly. The space to the front of the garages was strewn with household rubbish and other detritus at the time of my site visit, supporting the appellant's contention that the garages are not well used and that the site is attracting anti-social behaviour. The site, in its present form, detracts from the otherwise pleasant residential character of the area.
8. The proposed dwellings, although larger, would occupy a similar position to the garages and so would be surrounded by the rear gardens of neighbouring properties. The lowering of the site would ensure that the building did not exceed the height of the existing garages and so it would not become unduly prominent, either to neighbours or from the public realm. The properties would be constructed from red brick, reflecting the materials of the existing garages and the surrounding properties.
9. Although relatively small and contained within a constrained site, the buildings have been imaginatively designed to make the most of the space available. The use of similar materials would respect the character of the surrounding properties, but they would be deployed in a modern way, creating visually interesting dwellings that would make efficient use of this underused space.
10. Overall, the development would not harm the character and appearance of the area. As such, I find no conflict with Policies PG3, TP27 and TP28 of the BDP; Policy DM13 of the Development Management in Birmingham Development Plan Document (2021) (DM DPD); or the Birmingham Design Guide (2022) so far as they seek good design that has regard to its context.

Living conditions for future occupants

11. Both dwellings would meet the nationally described space standards for a one-bedroom property and would provide acceptable amounts of space for future residents, comprising a living/kitchen/dining room, double bedroom and a bathroom. Both the living space and bedroom would be served by large full height windows providing natural light and an outlook over private amenity space. Although relatively small and enclosed by boundary

treatments, the gardens would nonetheless provide an acceptable outlook, bearing in mind the dense urban context. The outdoor amenity spaces would be around 35sqm and 23sqm respectively which would be useable and sufficient for drying washing or sitting outside.

12. The amount of outdoor space proposed would fall short of that expected for a one-bedroom house within the Council's Healthy Living and Working Places City Manual (2022) (HL&WPCM) but this guidance allows for flexibility having regard to site circumstances. In this case, despite the site being heavily constrained, it would deliver a useable area of private amenity space along with communal spaces at the front that could be used for cycle and refuse storage. There are also public open spaces available within walking distance that future residents would benefit from.
13. Again, having regard to the HL&WPCM, the Council refers to a desired separation distance between building faces of 21m. However, the guidance itself states that this distance relates to two-storey dwellings and notes that this will be less critical for single storey development, as is the case in this appeal. The closest existing first floor window would be around 15.5m from a proposed habitable room window. Having regard to the single storey nature of the development, the oblique angle between the windows and the presence of tall boundary treatments, there would be no meaningful overlooking or loss of privacy.
14. Overall, the development would provide acceptable living conditions for future occupants. I find no material conflict with Policies PG3 and TP28 of the BDP; Policies DM2, DM10 and DM13 of the DM DPD; or the HL&WPCM so far as they seek good living conditions.

Living conditions of neighbouring occupants

15. As set out above, the closest window to window relationship would be between 606 Warwick Road. A greater distance of around 17.8m would be maintained with 5 and 7 Manor Farm Road. For the same reasons that I have set out above, namely the single storey nature of the proposed dwelling, the oblique angle between the windows and the presence of tall boundary treatments, no harm to neighbouring living conditions would result.
16. The development would not harm the living conditions of neighbouring occupants. I find no material conflict with Policies PG3 and TP28 of the BDP; Policies DM2, DM10 and DM13 of the DM DPD; or the HL&WPCM so far as they seek to maintain good living conditions.

Crime and anti-social behaviour

17. The site is currently ungated and is evidently being accessed for the purposes of fly-tipping. The proposed development would introduce residential development, a sense of ownership and passive surveillance from residents. The appellant has also suggested that a gate could be installed at the access from Roma Road to prevent unauthorised access. A gate, and any other security measures considered necessary to avoid crime and anti-social behaviour, or reduce the fear of crime, could be secured by condition if planning permission were to be granted.

18. I find no conflict with Policies PG3, TP28 and TP44 of the BDP; Policies DM2, DM10, DM13 and DM15 of the DM DPD; or the Council's guidance so far as they seek to prevent crime and anti-social behaviour.

Highway safety

19. The Birmingham Parking Supplementary Planning Document (2021) (Parking SPD) suggests that 1 space per dwelling represents 'typical levels of parking' in this area. However, this is not a minimum or maximum according to the guidance, which allows for flexibility. No parking spaces are proposed as part of the development.
20. The site is located in an urban area with a range of services and facilities within walking distance. Also in walking distance is Tyseley Railway Station and various bus stops, allowing for greater access to facilities, including in Birmingham. There is no reason why future residents would need to be reliant on a private car and the use of more sustainable modes of travel should be encouraged.
21. In any case, notwithstanding the Council's observations on visiting the site, there was ample on-street parking available during my site visit and I have seen no evidence, including from local residents, of any parking stress in the surrounding area.
22. If planning permission were to be granted, a means of preventing vehicular access to the site via the established sub-standard track could readily be secured by condition.
23. There would be no harm to highway or pedestrian safety as a result of the development. I find no conflict with Policies PG3, TP28, TP39 and TP44 of the BDP; Policies DM14 and DM15 of the DM DPD; or the Council's Parking SPD so far as they seek to ensure highway safety.

Conclusion

24. Although I have found no harm in relation to the majority of the main issues, insufficient information has been provided for me to determine the effect on protected species, namely bats. Having considered the development plan as a whole, the conflict with Policy TP8 of the BDP would be unacceptable.
25. I have had regard to the benefits that would arise from the scheme, particularly the provision of two dwellings in an area where there is insufficient supply. However, the adverse impacts arising from a conflict with Policy TP8 of the BDP and potential impact on protected species significantly and demonstrably outweigh the benefits, when assessed against the policies of the National Planning Policy Framework taken as a whole.
26. In light of the above, the appeal is dismissed.

Michael Boniface

INSPECTOR