



Appeal Decision

Site visit made on 23 January 2024

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2024

Appeal Ref: APP/P4605/W/23/3328782

105 Heathfield Road, Lozells And East Handsworth, Birmingham B19 1HE

- 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 Shaun Cummins against the decision of Birmingham City Council.
 - The application Ref 2023/04006/PA, dated 14 June 2023, was refused by notice dated 10 August 2023.
 - The development proposed is Erection of 2 one bedroom flats.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 one bedroom flats at 105 Heathfield Road, Birmingham, B19 1HE, in accordance with the terms of the application, Ref 2023/04006/PA, dated 14 June 2023, subject to the conditions set out in the attached schedule to this decision.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. The main parties have been given the opportunity to comment on this version and I have had regard to the revised Framework and the comments made by the parties in respect of the revisions, in reaching my decision.
3. In the banner heading above and my formal decision, I have removed the words "to the rear of number 105 Heathfield Road, Birmingham, B19 1HE", as this does not form part of the proposed development.

Main Issue

4. The main issue raised by this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site forms the rear garden of 105 Heathfield Road (No 105), a large three-storey semi-detached dwelling, which occupies a corner plot position at the junction with Brecon Road.
6. The rear garden of No 105 is viewed in the context of Brecon Road, which is primarily characterised by large, detached dwellings, of a similar form and appearance, arranged in a linear pattern along the mature tree lined road. However, the style of buildings, close to the junction with Heathfield Road, is more varied.

7. The site is located in between the main dwelling and a neighbouring single storey building beyond the rear boundary, which is enclosed by a wall and frontage gates. There is an enclosed piece of land on the other side of the single storey building, adjacent to 4 Brecon Road, a large, detached house. A Hindu Temple is located on the opposite side of the road.
8. The proposed building, comprising two flats, one at ground floor and one at first floor, would front Brecon Road and would have a two-storey, semi-detached appearance. It would have a modest height and footprint, which would ensure that it adequately integrates into the varied vernacular of the immediate street scene.
9. Notwithstanding that the proposal would result in the sub-division of the existing rear garden of No 105 and the depth of the proposed plot is shallow, the proposed building would sit comfortably within the plot. An adequate separation distance and relationship with the rear elevation of No 105 would also be achieved, despite the reduction of garden land. Therefore, the proposal would not appear as a cramped or contrived development within the context of the plot and its surroundings.
10. For the reasons outlined above, the proposed development would not be unacceptably harmful to the character and appearance of the area. Therefore, the proposal would not conflict with Policies PG3 and TP30 of the Birmingham Development Plan (2017) and Policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document (2021), which together and amongst other things, seek to ensure that development demonstrates high-quality design, that reinforces local distinctiveness, and considers the site and its context with regards to density.
11. Additionally, the development accords with the design principles of the Birmingham Design Guide Supplementary Planning Document and paragraph 135 of the Framework which seek to achieve well-designed and beautiful places that are sympathetic to the local environment.

Other Matters

12. While I acknowledge that the Council suggest that there is a greater need for two and three bedroom homes, as opposed to open market one bedroom units, the proposal would contribute to boosting the supply of housing in a sustainable urban area. Therefore, given my findings above, I have found no justification to dismiss the appeal.

Conditions

13. The Council has suggested several conditions, some of which I have amended for the sake of clarity, precision, and conciseness. I have also had regard to the Framework and national Planning Practice Guidance (PPG). In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure that the appearance of the development is satisfactory, a condition is imposed to require samples of the external materials to be approved. Likewise, to protect the character and appearance of the area I have imposed conditions to secure appropriate boundary treatments, and a landscaping scheme.

14. Noise mitigation measures to be incorporated into the building is also necessary in this location and would protect the living conditions of future occupiers.
15. Ground contamination conditions are necessary to prevent risk to the environment and to protect the living conditions of future occupants of the development. This relates to pre-commencement activities and the condition reflects this. I am satisfied that the conditions are necessary to make the development acceptable in planning terms and it would have otherwise been necessary to refuse planning permission. The appellant has provided written agreement to the terms of these conditions.

Conclusion

16. The proposed development would accord with the development plan, and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, numbered: 2021-177-001; 2021-177-004; 2021-177-005; and 2021-177-006.
- 3) No development shall take place until the following components of a remediation scheme to deal with the risks associated with contamination of each phase for the intended use have been submitted to and approved, in writing, by the Local Planning Authority:
 - a) A preliminary risk assessment, which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation scheme, based on (a) to provide information for a detailed risk assessment of the risk to all receptors that may be affected, including those off site.
 - c) An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken, timetable of works and site management procedures.
 - d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved and must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 (and subsequent legislation) in relation to the intended use of the land after remediation.
- 4) Prior to occupation of any part of the development hereby permitted, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
- 5) Prior to the occupation of the dwellings hereby permitted, a scheme of noise insulation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details to ensure that all windows, any other glazed areas, and external doors on all elevations provide a weighted sound reduction index ($R_w + C_{tr}$) of at least 32dB. Any ventilation on this elevation to habitable rooms shall be provided by

means of acoustic vents achieving weighted element normalised level difference ($D_{n,e,w} + C_{tr}$) of at least 38dB.

6) No development above slab level shall commence until samples of all proposed external facing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

7) No development above slab level shall commence until proposed boundary treatments for the site have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the occupation of the dwellings hereby permitted and shall be retained thereafter.

8) No development above slab level shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- a) Numbers, types, sizes and positions of proposed trees and shrubs;
- b) Proposed hard surfacing treatments;
- c) Planting, seeding/turfing of other soft landscape areas; and
- d) Proposed retaining walls or similar structures.

The approved landscaping scheme shall be carried out not later than the first planting season following the substantial completion of the development or occupation of the building, whichever is the sooner. Any trees or plants which, within a period of five years, die, are removed, or have become seriously damaged or diseased shall be replaced in the next planting season with ones of similar size and species to the satisfaction of the Local Planning Authority, unless written consent has been obtained from the Local Planning Authority for any variation.