

Appeal Decision

Site visit made on 20 March 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2024

Appeal Ref: APP/P4605/W/23/3333712

Land adjacent 44 Wandsworth Road, Kingstanding, Birmingham B44 9LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by K Rahman against the decision of Birmingham City Council.
 - The application Ref is 2023/02824/PA.
 - The development proposed is existing garage to be demolished and replaced with 2no. studio apartments development with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The revised National Planning Policy Framework (Framework) was published in December 2023. I do not consider in this case that this raises any matters that require me to seek any further representations from the parties and I am satisfied that no interests have been prejudiced in this regard.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the area; and the effect upon the living conditions of the neighbouring occupiers of 44 Wandsworth Road with particular regard to outlook and light.

Reasons

Character and appearance

4. The appeal site relates to a plot of land adjacent to 44 Wandsworth Road, a two storey semi-detached dwelling which is located at the junction with Bandywood Road. The surrounding area is residential in character comprising mainly terraced and semi-detached dwellings. The site appears to have been part of the garden of No 44 but has been partly fenced off to form a separate parcel of land. There is a driveway and a detached garage to the rear of the plot. In terms of its overall form and design the adjacent property, including its steep hipped roof and brick and tiled roof construction, is typical of surrounding built form. The property faces a wide section of the pavement and occupies a prominent position within the street scene.
5. During my site visit I observed that properties in the area are generally set back from the pavement within generously sized plots with low boundary fences and/or planting to the frontages, giving the area an open and relatively uniform character. The site forms part of a generous gap between No 44 and 42

Wandsworth Road, which forms a break in the street scene and gives a spacious character to this part of the road.

6. The proposal would be sited close to the side of No 44 in the gap between that the property and No 42 and would be served by a parking area and a garden to the front. The proximity to the side boundaries of the site, and the lack of external space to the rear of the proposal, would not reflect the more spacious plots in the area. This reduction in the gap between the two properties would significantly diminish the sense of openness and result in a cramped form of development. Consequently, the proposal would not respect the prevailing pattern of development in the area.
7. Furthermore, the form and design of the proposal, and the flat roof in particular, would give the development a block like appearance which would be uncharacteristic of the adjacent hipped roof properties. As such the proposal would fail to reflect the form and design of existing properties in the area and would appear out of context with its surroundings. Therefore, given its prominent siting and incongruous design, the proposal would be a harmful addition to the street scene.
8. The appellant considers that the street scene has changed and evolved from its original appearance due to the enlargement of properties. However, while some properties have been extended the area retains a characteristically open and uniform feel which the appeal scheme would not reflect. The appellant has referred to flat roof extensions to properties in the area, but there are no further details of these before me and I did not observe any such developments during my visit. In any event, I must consider the appeal scheme on its own merits.
9. For the above reasons I conclude that the proposal would significantly harm the character and appearance of the area. It would be contrary to Policies PG3 and TP27 of the Birmingham Development Plan (2017) (BDP), Policy DM2 of the Development Management in Birmingham Development Plan Document (2021) (DPD), and guidance contained within the Birmingham Design Guide (2022) (BDG). Amongst other matters, these policies and guidance seek to ensure that developments achieve a high design quality that corresponds to the local area context. The proposal would also conflict with paragraph 135 of the Framework which, amongst other things, requires development to be sympathetic to local character and history, including the surrounding built environment.

Living conditions

10. The south-east facing elevation of No 44 contains two ground floor windows either side of an entrance door and a further three windows above. Given the low height of the adjacent garage the windows to this elevation of the property currently have an open aspect. The Council says the windows are likely to serve habitable rooms, which the appellant has not disputed.
11. The proposed building would be sited very close to and span a substantial distance of this elevation of No 44. Given its height, the proposal would be likely to reduce the amount of light received by the neighbour's windows and result in a significant loss of outlook and a sense of enclosure. Moreover, the siting of the proposal would create a narrow alleyway to the entrance door to No 44 which would not provide a welcoming or safe route for occupiers of that property. Due to its scale, massing and siting adjacent to No 44's rear garden, the proposal would also have a dominating effect on the neighbour's garden, resulting in a

sense of enclosure, and loss of outlook and light to this space which would further diminish the neighbour's living conditions.

12. The Council has raised no concerns in relation to the effect of the proposal on No 42. Given the relationship between this neighbouring property and the appeal site, I see no reason to disagree with that assessment.
13. I conclude that the development would harm the living conditions of the occupiers of No 44 with particular regard to outlook and light. It would conflict with Policies PG3 and TP27 of the BDP, Policy DM2 of the DPD and guidance in the BDG, which require, amongst other things, that developments provide good quality and well-designed living environments, and not result in unacceptable adverse impacts on neighbouring amenity. The proposal would also conflict with the Framework, where it seeks a high standard of amenity for existing users.

Other Matters

14. I acknowledge that no objections were received from statutory consultees, but this does not lead me to a different conclusion based on my own observations.

Planning Balance and Conclusion

15. The Council cannot demonstrate a five year supply of housing land. Therefore, paragraph 11d) of the Framework is engaged. This states that the most important policies are out of date and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. The appellant contends that the development would free up a larger dwelling for family occupation while providing new one bedroom units of accommodation. The Council considers that there is an oversaturation of this dwelling type in the city. I acknowledge that the development would offer benefits in terms of the addition of two new dwelling units in an accessible location, which would align with the support given by the Framework for the development of windfall sites and its objective of significantly boosting the supply of homes. Employment opportunities created during the construction phase of the development and on-going support for local services by future occupiers, would be economic benefits of the scheme. The appellant has referred to other benefits of the scheme, including those relating to energy efficiency and an effective use of land. I have attached some weight to these factors. However, given that the proposal is for two dwelling units I attach only limited weight to these benefits.
17. The harm to the character and appearance of the area and adverse effect on the living conditions of the neighbouring occupiers would be long lasting and are worthy of significant weight. Therefore, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result the presumption in favour of sustainable development does not apply. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR