



Appeal Decision

Site visit made on 19 April 2024

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13.05.2024

Appeal Ref: APP/P4605/W/23/3328659

72 Wellington Road, Handsworth, Birmingham, B20 2SD

- 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 Humanify against the decision of Birmingham City Council.
 - The application Ref 2023/03835/PA, dated 5 June 2023, was refused by notice dated 2 August 2023.
 - The development proposed is Conversion of existing rear outbuilding into 2no. additional 2-bed apartments with associated external alterations, fencing and communal outdoor amenity space for 72 Wellington Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application plans show the area of garden to be retained at 74 Wellington Road as 60 sqm. As part of the appeal, the appellant has included an amended site plan increasing the garden area to 70 sqm. As this is a minor amendment, and the nature of concerns of those who would normally have been consulted are clear from consultation on the original set of plans, I do not consider that their interests would be prejudiced if I take this amended plan into account.
3. The Council has advised that the amended plan addresses their fourth reason for refusal and that they no longer wish to defend that reason in respect of the effect on the living conditions of future occupiers of No 74 in relation to the loss of amenity space. I therefore do not address this matter in the reasoning below.

Main Issues

4. The main issues are the effect of the proposed development upon:
 - the character of the area;
 - the living conditions of occupiers of the proposed development, and neighbours, with particular regard to outlook and noise and disturbance, respectively;
 - pedestrian and highway safety; and,
 - the fear of crime in the locality and community cohesion.

Reasons

Character of the area

5. The appeal building is a substantial single storey hipped roofed outbuilding. It is in the rear garden of No 74 Wellington Road which runs to the side and back of the fence enclosed rear yard of 72 Wellington Road. The building is bounded by the back gardens of houses on Kingsleigh Road to the side, Grosvenor Road to the rear and neighbouring houses on Wellington Road. There are outbuildings in neighbouring gardens, but they are significantly smaller than the appeal building. Houses nearby are a mix of semi-detached, detached, and terraced housing with front gardens set behind the pavement, some of which include off road parking, and long narrow rear gardens with some mature trees.
6. The proposal would involve removing the back fence which separates the rear yard at No 72 from the land surrounding the appeal building, so that they would share a common amenity space, and adding fencing to separate a retained area of garden space for No 74. The building would be accessed by the front door of No 72 through a corridor leading to a side door out on to the backyard. The converted building would provide two 3 person flats, in addition to the 6 self-contained flats at No 72.
7. The appellant has calculated the existing site density as 60 dwellings per hectare (dph) which already exceeds the Council's aspirations, in Policy TP30 of the Birmingham Development Plan (2017) (BDP), for a density of 50 dph in areas well served by public transport. According to the appellant, the proposal would raise the site housing density to 80 dph which would substantially exceed the target density for areas outside of the city centre. I note that there are flats on nearby Lyndon Close, but these are well designed apartment blocks set in landscaped grounds, rather than a converted outbuilding in a garden, and are not therefore comparable with the appeal proposal.
8. Rear gardens in the surrounding area are enclosed by other gardens and houses and not generally connected to the road network and thus require access by narrow side entrances or through existing properties, as is the case with the appeal proposal. Use of such accesses by separate households can harm the living conditions of occupiers of existing properties, as set out below. Because of the size of the appeal building there is only a small gap between it and the proposed boundary fences. Whilst this may not cause concerns for an ancillary building, it would not provide a suitable outlook for a residential property, which is also set out in my reasoning below. The use of the garden for residential development is not therefore appropriate in this case and would be out of character with the area where I saw no indication of outbuildings being used other than for ancillary purposes.
9. Overall, on this main issue I consider the proposed development would lead to an overly intensive form of backland development at odds with the lower density residential character of the area and thus conflict with Policy PG3 of the BDP, Policy DM10 of the Development Management in Birmingham Development Plan Document (2021) (DPD), guidance in Birmingham Design Guide (2022) (BDG), and the National Planning Policy Framework (2023) (the Framework) which require development to respond to the local context and character of the area.

Living conditions

10. The back gardens of houses on Kingsleigh Road sit slightly above the appeal site. As a result, their rear garden fences and outbuildings are at approximately the same height as the eaves on the appeal building and are located a few metres from it. Consequently, the proposed rear windows of the building, on the southwest elevation serving the dining room and lounges of the proposed flats, would face directly onto walls which would have an overbearing presence and severely restrict daylight views from them. Windows on the side elevations would allow some relief to these rooms, although the window on the flat facing the rear boundary of houses on Grosvenor Road would be overshadowed by the close boundary hedge which would fill views from it.
11. The windows on the front, northeast, elevation would face directly onto a 1.8 metre high wooden fence which would obstruct views offering poor outlook from them, particularly affecting the second bedrooms which are not dual aspect. Bedroom 1 on the flat closest to Grosvenor Road would also face a boundary hedge which would restrict views and sunlight into its side windows. Overall, I consider the poor outlook from both flats would harm the living conditions of occupants to an unacceptable degree.
12. The plans indicate that access to the flats would be through No 72. However, at the time of my visit there was no access beyond flats 1 and 2 on the ground floor as the corridor which led to the rear yard appeared to be part of flat 3 and was locked. Opening that corridor up to enable access to the proposed development would lead to comings and goings of up to 6 people, increasing noise and disturbance particularly to the occupants of flats 2 and 3. Residents of the proposed flats would have to walk directly in front of the lounge/dining room for flat 3 and past the bedroom window of flat 2 to access the rear door and pass through No 72 to reach Wellington Road. This would lead to an unacceptable impact on the living conditions of occupiers of those flats.
13. There would also be increased noise from the shared use of the amenity space, however I am not convinced that it would be significantly greater than the combined noise of nearby residents using their gardens during certain times of the year.
14. Overall, I conclude on this main issue that the proposed development would harm the living conditions of occupants of the existing and proposed flats because of noise and disturbance and poor outlook, respectively. The proposal therefore conflicts with Policy PG3 of the BDP, Policies DM2 and DM10 of the DPD, guidance in the BDG, and the Framework which seek to protect the amenity of occupiers of development and neighbours.

Highway and pedestrian safety

15. Wellington Road is part of the busy outer circle ring road and is relatively narrow close to the appeal site. Kerbside parking would not leave enough space for traffic to pass on both sides of the road so most cars at the time of my visit were parked on the pavement, leaving little room for wheelchairs or pushchairs to pass, or on forecourts in front of houses.
16. The front garden of No 72 is currently paved and has no front boundary wall. The plans indicate it would provide 4 carparking spaces serving both the existing and proposed flats. However, one space is shown blocking access to the front door and if it were moved to enable pedestrian and emergency service access it would not be possible to provide 4 standard 2.4m wide parking spaces

without partially blocking the side access to the bin storage and cycle parking at the rear of No 72. In my view, only 3 parking spaces can realistically be achieved at the property.

17. The appellant has acknowledged that, according to the Birmingham Parking Supplementary Planning Document (2021) (SPG), based on typical levels of parking, 8 parking spaces would be required for the existing and proposed flats. Although the proposal falls significantly short of that requirement, the SPG allows for flexibility depending on car ownership levels in the area, access to public transport and walking and cycling provision.
18. The appellant's transport statement states that, based on estimated local car ownership levels of 0.53 cars per household, 5 spaces would be needed. It also notes the good public transport links within the area and cycle parking proposed on the site. According to a parking stress survey carried out on behalf of the appellant by CTS Traffic & Transportation consultants, there is enough on street parking capacity nearby, including on Howard Road opposite the site, to cater for the additional car parking spaces that cannot be provided on site. Overall, I am satisfied that, based on the evidence before me, even if future occupiers of both properties chose car ownership over alternative means of transport there would be sufficient parking within the area to avoid parking conflicts that could harm highway safety. The proposal would therefore comply with Policies PG3 and TP44 of the BDP, Policies DM10, DM14 and DM15 of the DPD, and the Framework which seek to ensure that development provides sufficient parking and does not harm pedestrian or highway safety.

Community cohesion and the fear of crime

19. The courts have held that the fear of crime can be a material consideration but there must be a reasonable evidential basis for that fear linking the proposed use or occupiers with criminal activity. The West Midlands Police (WMP) have objected to the proposal citing crimes reported at Nos 72 and 74 Wellington Road and a local resident has objected to the proposal on the grounds of concern over crime and antisocial behaviour.
20. A letter in support of the proposal, submitted by Yena Housing Limited which works in partnership with the appellant, states that Nos 72 and 74 provide accommodation for homeless people with support to enable independent living, including working with specialist support services. It confirms incidences of reported crime at the premises but states that these were isolated incidences that had no impact on residents outside the building and that the police have made no direct complaints to them regarding residents. The letter also outlines procedures in place such as screening to identify the needs of residents, ensuring swift responses to any reported incidences and terminating agreements when necessary.
21. I appreciate the neighbour's and WMP's concerns but the proposed development is intended to house families and there is no substantive evidence to suggest that future occupants would be likely to be involved in criminal or antisocial behaviour. Also, it seems to me that Yena Housing Limited have appropriate procedures in place to manage incidents related to individual behaviour if they should arise. Overall, I consider that the proposal would not have a materially harmful effect on the fear of crime and would not therefore conflict with Policy PG3 of the BDP and Paragraphs 92 and 130 of the Framework which require development to create safe environments where the fear of crime does not

undermine community cohesion. Policy DM11 of the DPD, referred to in the Council's reason for refusal applies to Houses in Multiple Occupation and is not therefore relevant to the proposal.

Planning Balance

22.The Council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the Framework. Consequently, paragraph 11(d) of the Framework is engaged. It requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

23.The proposal would provide benefit in terms of 2 additional units of accommodation which weighs in favour of the development. In my view, the unacceptable effect of the proposal on the character of the area and the living conditions of future occupants and occupiers of the existing flats would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Thus, the proposal would not be sustainable development for which the Framework indicates a presumption in favour.

Other Matters

24.I note the appellant's concern that they were not made aware of objections by the WMP and neighbours because representations are not published by the Council. However, procedural issues such as this must remain a matter between the main parties. More particularly, my remit is limited to assessing the planning merits and impacts of the proposed development, and I have reached my decision on this basis.

25.I have had regard to representations raising concerns relating to privacy and noise pollution associated with construction. However, these do not add to my reasons for dismissing the appeal.

Conclusion

26.For the reasons given above I conclude that the appeal should be dismissed.

P D Sedgwick

INSPECTOR