

Appeal Decision

Site visit made on 26 April 2024

by N McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2024

Appeal Ref: APP/P4605/D/24/3338880
15 Kellett Road, Birmingham, B7 4NQ

- 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 Habib Rehman against the decision of Birmingham City Council.
 - The application Ref 2022/07183/PA, dated 20 September 2022, was refused by notice dated 1 December 2023.
 - The development proposed is an outbuilding was erected in July 2021. The proposal is to divide the outbuilding into 2 outbuildings and also to change the façade of the outbuilding 1 to match the street scene.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development the subject of this appeal has already taken place.
3. The description of development is taken from the application form. The Council's decision notice describes the development as "Retention of side and rear outbuildings including remedial works to divide the outbuilding into 2 outbuildings and changes to design."
4. The application the subject of this appeal was submitted following Council enforcement action¹.
5. The appellant considers that the development was constructed in accordance with the General Permitted Development Order. The Council notes that Permitted development rights for extensions and outbuildings were removed under planning reference 1995/02154/PA.
6. The appellant states that the Council took an extended period to reach a decision on the application and that the Council did not consult with him to consider design changes. These are matters between the appellant and the Council.

¹ Reference: 2021/0846/ENF.

Main Issues

7. The main issues in this case are the effect of the development on the character and appearance of the area; its effect on the living conditions of the occupiers of Number 11 Kellett Road, with regards to outlook; and whether it provides acceptable living conditions for future occupiers, with regards to private outdoor amenity space.

Reasons

Character and appearance

8. The appeal property is a two storey semi-detached brick-built dwelling. The appeal property is set back from the road behind an area dominated by parking and has a small garden area to the rear, much of which appears taken up with development.
9. The appeal property is located in a residential area. Dwellings tend to be semi-detached or built in short terraces of three and largely comprise brick-built two storey dwellings of similar appearance.
10. During my site visit, I observed that the majority of dwellings have gardens and/or parking areas to the front and gardens to the rear. This, together with the presence of areas of public green space, trees and gaps between dwellings, provides for a notably green and spacious environment and combines with the similar appearance of dwellings to afford the area an attractive sense of uniformity.
11. The development appears as an unattractive, poorly-designed addition. Its composite panels and flat-roofed design draw the eye and result in a development that appears out of keeping with and in stark contrast to, the attractive uniform qualities of the host dwelling and its neighbours. Consequently, it appears out of character with the host property and its surroundings.
12. Unlike neighbouring dwellings, many of which have attractive garden frontages, the large parking area in front of the development fails to soften the harsh visual impact of the development. Instead, it serves to emphasise the development's alien appearance and exacerbates the harm arising from its incongruity.
13. Taking all of the above into account, I find that the development harms the character and appearance of the area, contrary to the National Planning Policy Framework; to Birmingham Development Plan (2017) Policy PG3; to the Council's Development Management in Birmingham Development Plan Document (2021) Policy DM2; and to the Council's Birmingham Design Guide Principles Supplementary Planning Document (2022), which together amongst other things, seek to protect local character.

Living Conditions – Neighbouring Occupiers

14. The development projects along the shared boundary with Number 11 Kellett Road towards the end of the rear garden. It does so in immediate proximity to No 11 and I find that this, combined with the height and long projection of the

development results in it appearing to loom above and unduly dominate the outlook to the side and rear of No 11 to an overbearing extent.

15. Consequently, I find that the development harms the living conditions of the occupiers of Number 11 Kellett Road, having regard to outlook, contrary to the National Planning Policy Framework; to Birmingham Development Plan (2017) Policy PG3; to the Council's Development Management in Birmingham Development Plan Document (2021) Policies DM2 and DM10; and to the Council's Birmingham Design Guide Principles Supplementary Planning Document (2022), which together amongst other things, seek to protect residential amenity.

Living Conditions – Future Occupiers

16. I observed during my site visit that the presence of gardens is a notable and attractive feature of the surrounding area. Access to private amenity space of sufficient size and quality to serve occupiers is characteristic of the area and the Council notes that permitted development rights were removed from the housing estate to protect small rear gardens from overdevelopment.
17. The development extends across much of the appeal property's rear garden. The Council provides evidence to demonstrate that, as a result, there is a significant deficiency in private outdoor amenity space, contrary to guidance in the Council's Birmingham Design Guide Principles Supplementary Planning Document (2022). There is no information before me to the contrary.
18. Whilst the appellant considers that the development provides indoor amenity space, this is not the same as private outdoor space and taking the above into account, I find that the development fails to provide future occupiers with acceptable levels of private outdoor amenity space, contrary to the National Planning Policy Framework; to Birmingham Development Plan (2017) Policy PG3; to the Council's Development Management in Birmingham Development Plan Document (2021) Policy DM2; and to the Council's Birmingham Design Guide Principles Supplementary Planning Document (2022), which together amongst other things, seek to protect residential amenity.

Conclusion

19. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR