



Appeal Decision

Site visit made on 23 April 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/P4605/W/23/3335796
40 Westhouse Grove, Birmingham B14 6PT

- 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 Mr J Ferran against the decision of Birmingham City Council.
 - The application Ref is 2023/02762/PA.
 - The development proposed is the erection of one dwelling and associated work.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area,
 - whether the development would provide satisfactory accommodation for its future occupants, with regard to internal space standards and private amenity space,
 - the effect of the proposed development on the living conditions of neighbouring occupiers with regard to privacy and light, and
 - the effect of the proposed development on highway safety.

Reasons

Character and Appearance

3. The appeal site forms part of the garden area to an existing dwellinghouse, an end terrace property that has its side gable facing Westhouse Grove. The area comprises of similar terrace and semi-detached properties which are typically set behind garden and parking areas. The open frontages, the consistent building lines amongst groups of properties, as well as the similar palette of facing materials contribute to the pleasant, spacious residential character of the area.
4. The proposed dwelling, although being a continuation of the existing terrace and reflecting its design, would project past the broadly consistent building line on the south-western side of Westhouse Grove. Although the existing garden is fenced off and screened by existing vegetation, the proposal would have a taller two-storey form which would appear incongruous forward of the building line along Westhouse Grove.

5. The site is situated in a built-up area, but the proposed house would occupy part of the garden to the existing dwelling that would harm the spacious characteristic of the area for the reasons set out. A hardstanding area would be formed for the provision of parking, but having regard to nearby properties that have similar arrangements, I do not consider this element of the development would be harmful.
6. Nevertheless, I conclude that the development overall would have an unacceptable adverse impact on the character and appearance of the area. As such, it would be contrary to Policy PG3 of the Birmingham Development Plan (BDP), Policy DM2 of the Development Management in Birmingham Development Plan Document (DMB), the Birmingham Design Guide Healthy Living and Working Places City Manual (BDG City Manual) and the National Planning Policy Framework (Framework) which seek, amongst other matters, for development to reinforce local distinctiveness.

Living Conditions – Future Occupiers

7. The proposed two storey dwelling with 3 bedrooms would not meet the minimum gross internal floor area of 84sqm as set out in the Technical housing standards – nationally described space standards (NDSS). Although the shortfall would be small, as would the shortfall in the size of one of the bedrooms, the failure to meet the NDSS would result in sub-standard cramped accommodation for its future occupants.
8. Although reference has been made to amendments that could be made by utilising one of the bedrooms for another purpose such as a study, there is no certainty that this room would continue to be used in such a way. Changes could be made to the internal layout once the dwelling has been constructed, but this does not detract from the harm that would arise from the overall minimum gross internal floor area not being met.
9. The proposed dwelling would also fail to provide the required 70sqm private outdoor amenity space set out in the BDG City Manual. Whilst the available space would provide for outdoor recreation, as well as accommodating domestic paraphernalia, the BDG City Manual states that proposals below the City Council's minimum standards should demonstrate how the reduction will not impact on the delivery of quality amenity space. No such details have been provided and this aspect of the scheme would compound the failure to meet internal space standards which would not be overcome by the proximity to public open space areas.
10. I therefore conclude that the development proposed would not provide satisfactory accommodation for its future occupiers, having regard to internal space standards and private amenity space. Accordingly, it would conflict with Policies PG3 and TP27 of the BDP, Policies DM2 and DM10 of the DMB, the BDG City Manual and the Framework, which seek, amongst other matters, for development to meet minimum NDSS and to provide sufficient private usable outdoor amenity space.

Living Conditions – Neighbouring Occupiers

11. The proposed dwelling would be situated only around 15m from the neighbouring property at 38 Westhouse Grove, which would be less than the

21m standard set out in the BDG City Manual. It is however acknowledged by this document that there will be exceptions, and in this case, the appeal property would be located at an angle from this neighbouring property at No. 38 which would limit direct overlooking. There would not therefore be any harmful privacy or loss of light impacts arising.

12. There would be more direct views from the front of the proposed dwelling, but these would predominantly be over the front and side garden areas of the nearest neighbouring properties. As such, this relationship would not give rise to harmful overlooking.
13. I therefore conclude that the proposal would not have an unacceptable harmful effect on the living conditions of neighbouring occupiers with regards to privacy and light. As such, it would comply with BDP Policies PG3 and TP27 and Policy DM2 of the DMB, the BDG City Manual and the Framework, which seek, amongst other matters for development to not result in unacceptable adverse impacts on the amenity of occupiers or neighbours.

Highway Safety

14. The proposed dwelling would be served by two parking spaces which can be accommodated within the curtilage. There is however a change in levels along Westhouse Grove and the submitted plans do not provide details of any retaining structures or how the change in levels would affect visibility. As such there is insufficient information before me to fully assess the access and parking arrangements proposed. This is not a matter that can be addressed by planning condition as it is necessary to establish whether safe access and egress can be provided without harming passing pedestrians or other highway users.
15. In the absence of this information, I conclude that the appeal development has failed to demonstrate how it would have no unacceptable harmful effect on highway safety. As such, it would be contrary to Policy TP44 of the BDP and Policy DM14 of the DMB, which seek, amongst other matters, the efficient, effective and safe use of the existing transport network and that development ensures that the safety of highway users is properly taken into consideration.

Other Matters

16. The appeal site is not situated in a Conservation Area nor is it subject to an Article 4 direction. The development would also provide Community Infrastructure Levy contributions. These are however neutral matters and not ones which weigh in favour of the proposal.

Planning Balance

17. The Council is unable to demonstrate a 5 year deliverable supply of housing, and has set out that its current supply equates to 3.15 years. The relevant policies of the development plan are therefore deemed to be out of date and, in light of Paragraph 11 d) ii) of the Framework, 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.
18. The proposal would harm the character and appearance of the area, it would fail to provide satisfactory accommodation for future occupiers and has failed to

demonstrate that it would have no harmful effect on highway safety. This harm would be long lasting and would be contrary to the objectives of the Framework. I ascribe this substantial weight.

19. The proposal would provide an additional family dwelling in a location accessible to local services and would contribute to the significant demand for housing in the City. It receives support from the Framework which states that small and medium sized sites can make an important contribution to meeting the housing requirements of an area. However, as the proposed development would provide a single dwelling, it would make a contextually small contribution to the Council's housing supply.
20. With this in mind, I attach limited weight to the appeal scheme's benefits. As such, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

21. I therefore conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR