



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: 17.05.2024

Appeal Ref: APP/P4605/W/23/3335083

Land adjacent to 37 Lime Grove, Erdington, B73 5JN

- 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 Ms Claire Fage against the decision of Birmingham City Council.
 - The application Ref 2022/08031/PA, dated 25 October 2022, was refused by notice dated 27 June 2023.
 - The development proposed is two storey 2 bedroom 3 person flats adjacent to 37 Lime Grove Erdington.
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Decision

1. The appeal is allowed and planning permission is granted for two storey 2 bedroom 3 person flats adjacent to 37 Lime Grove Erdington at Land adjacent to 37 Lime Grove, Erdington, B73 5JN in accordance with the terms of the application, Ref 2022/08031/PA, dated 25 October 2022, and the plans submitted with it, subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area, including its effect on trees; and,
 - pedestrian safety with regard to the fear of crime and antisocial behaviour.

Reasons

Character and appearance

3. The appeal site relates to an area of open space behind the turning head at the end of Lime Grove and adjacent to No 37, a terraced house at the end of the road. The site is also bounded by a school playing field and a former care home, Elmscote House. The land is bisected by a footpath link to Elmscote Drive which connects to Little Green Lanes and onto Birmingham Road and the Wylde Green district shopping area. The land is partly laid to grass on one side of the path and has trees and hedges on the other side with a small partly overgrown tarmacked area.
4. Lime Grove comprises a mix of 2 storey housing of various types and designs, including Victorian terraced housing, semi-detached housing, and a 2 storey block of flats. Elmscote House to the side and rear of the site is a single storey building now abandoned. The Council is concerned that the proposed development would be visually prominent and out of character because it would

sit forward of the building line for No 37 and does not incorporate architectural details that contribute to the character of the area. It is also concerned over the loss of trees on the site and the impact on those adjacent to it.

5. Because of its position set back at the end of the road behind the turning head, the appeal site relates as much to the neighbouring rear wing of Elmscote House as it does to No 37 and the terrace of which it is part. The proposed building would closely align with the building line for the rear of Elmscote House and, from most views looking down Lime Grove towards the site, it would be partially hidden behind No 37 and thus not visually intrusive.
6. Other than projecting bays on the front elevation of houses, and some decorative brickwork on the adjacent terrace, there is little in the way of architectural detail or design to define the character of properties on Lime Grove. The plain elevations on the proposed development would not therefore look out of place, particularly given the variation in the design of buildings at this end of the road where the semi-detached houses, flats, and Elmscote House are located. The blank flank wall of No 37 faces the footpath when approaching the site from Elmscote Drive. The proposed flats would similarly present a blank elevation from these views, but it is obvious that the path is approaching the rear of Lime Grove, where relatively featureless rear and side views of buildings is to be expected.
7. External finishes and brick colour could be secured by condition to ensure that it matches that of housing elsewhere within the road, as recommended by the Council's City Design Officer, enabling the proposed development to integrate within the street scene and address concerns over the use of materials.
8. Trees on the appeal site, and to the front and rear of Elmscote House, provide a backdrop to the end of Lime Grove. When approaching the site from Elmscote Drive they are seen in the context of a line of trees running along the side of the playing field and extending across the front and to the rear of Elmscote House. From both approaches they make a positive contribution to the appearance of the area.
9. Policy DM4 of the Development Management in Birmingham Development Plan Document (2021) (DPD) requires development to avoid the loss and minimise the risk of harm to trees of quality. The Birmingham Design Guide Principles Document (2022) (BDG) further states that consideration must be given to the retention of B category trees wherever it is reasonably possible but notes that C category trees should not be a constraint to development.
10. The appellant's tree survey identified 12 trees and groups of trees within or adjacent to the site. Four trees, T5, T6, T7 and T8 were identified as having some streetscape value, but only T7 and T8, both sycamore trees over 10m high, were assessed as category B trees. The remainder were assessed as category C or U. My site visit confirmed the importance of T7 and T8 which contribute most to the visual interest that I have described.
11. The root protection area (rpa) for T8 lies well outside the site area and it would remain unaffected by the proposed development. T7 has a more extensive rpa, part of which would be within the developed area. Although it was assessed as potentially failing in the short to medium term, in my view it is worthy of retention and would require protection during the construction period. Another tree outside the appeal site, approximately opposite T7 also contributes to the

visual amenity of the area but was not surveyed. However, given its distance from the proposed development it is unlikely to be affected by the proposal.

12. The Council's Tree officer, whilst not disputing the findings of the survey, objected to the loss of the green space and trees and the lack of an arboricultural impact assessment (AIA). However, the open space has little landscape value other than that provided by the trees on and around it, the retention of which, along with landscaping measures on the site, would retain the verdant backdrop that contributes to the street scene.
13. Overall, I conclude on this issue that subject to conditions requiring details of materials and finishes and tree protection and landscaping measures there would be no significant impact on the character and appearance of the area and the proposal would not conflict with Policies PG3 and TP27 of the Birmingham Development Plan (2017) (BDP), Policies DM2 and DM4 of the DPD, the BDG and Paragraphs 130 and 131 of the National Planning Policy Framework (2023) (the Framework) which require design that is appropriate to its location and that development protect trees where possible.

Fear of Crime

14. The public footpath would be re-routed to run along the side boundary with No 37 and turn to follow the fence line of the adjacent school playing field. The playing field chain link perimeter fence provides open views from the footpath towards the school. The proposed 0.8 metre fence along the edge of the path, opposite the school fence, would retain a sense of openness along the path, which is acknowledged in the City Design Officer's comments. The footpath would also be overlooked by lounge and bedroom windows in the proposed flats, providing a degree of natural surveillance.
15. There would only be a few metres where the side wall of No 37 would be opposite that of the proposed development. The gap between the properties, and either side of them, would be enough to prevent the tunnelling effect that the Council refer to, and avoid creating an overbearing presence or sense of enclosure that might cause concern to pedestrians. In my view, the presence of the flats, and the position of their windows, may deter crime and antisocial behaviour, rather than increase it. I also note that the West Midlands Police raised no objections to the proposal.
16. Overall, I conclude on this matter that the proposed development would not deter use of the public footpath through an increased fear of crime and there would be no conflict with Policies PG3 and TP27 of the BDP, Policy DM2 of the DPD, the BDG and the Framework which seek to ensure that development does not result in unacceptable impacts on amenity in terms of the fear of crime and antisocial behaviour.

Other Matters

17. I have had regard to representations raising concerns over flooding, parking, the size of the proposed amenity space, water pressure, communication by the Council during the planning process and potential overlooking of the school grounds. Subject to a condition to ensure the submission, approval, and implementation of surface water disposal methods the proposal should not give rise to additional flooding. The Water Authority raised no concerns regarding mains water pressure. The proposal includes 4 off road parking spaces which

raised no objections from the Council and would ensure there would be no on street parking or obstruction to traffic turning at the end of the road. The potential for overlooking the school would be no greater than already exists from the use of the footpath and from existing houses on Elmscote Drive. Procedural issues such as communication between the Council and neighbours 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.

Conditions

18. A condition specifying the approved plans, is necessary in the interests of clarity. Conditions requiring details of materials and landscaping are necessary to safeguard the character and appearance of the area. A condition regarding contaminated land is necessary to protect against pollution and harm to health. A condition regarding drainage is necessary to ensure the proposal is sustainable in terms of surface water management.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

P D Sedgwick

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2213:01; 2213:02; 2213:03; 2213:04.
- 3) Prior to the commencement of construction of any external walls or the roof of the building hereby approved, details of the materials to be used in the construction of the external surfaces of the building shall be submitted to and approved in writing by the local planning authority.
- 4) Development shall not commence until drainage works for the development hereby approved have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include: boundary treatments; electric vehicle charging points; indications of all existing trees and hedgerows on, or adjacent to, the land to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged

or diseased shall be replaced in the next planting season with others of similar size and species.

- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

*****End of Conditions*****