



Appeal Decision

Site visit made on 28 May 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th June 2024

Appeal Ref: APP/P4605/W/24/3338210

Sherborne Place, Sherborne Street, Birmingham B16 8FN

- 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 Ms Sarah Willoughby-Parsons c/o Ridgeback Group against the decision of Birmingham City Council.
 - The application Ref is 2023/07763/PA.
 - The development proposed is the erection of new vehicular and pedestrian gates and railings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of new vehicular and pedestrian gates and railings at Sherborne Place, Sherborne Street, Birmingham B16 8FN in accordance with the terms of the application, Ref 2023/07763/PA, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, L(90)SP-01 Rev C, L(2-)DTL-02 Rev E and L(2-)DTL-03 Rev E.

Preliminary Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue is the effect of the proposed gates on the pedestrian connectivity and permeability of Sherborne Place with the surrounding area.

Reasons

4. Sherborne Place is a development located off Sherborne Street with the Birmingham Canal to the north of the development. The appeal site comprises a road which runs into the Sherborne Place development and is accessed via two entrances off Sherborne Street. One of the entrances has bollards across

limiting vehicular access, however both entrances allow unrestricted pedestrian and cycle access, into and out of the development.

5. There is a third pedestrian access/exit point from Sherborne Place to the Birmingham Canal towpath. The block plan details new canalside gates at this location, however from the submitted evidence it is clear that planning permission is not being sought for these gates, although they do form a material consideration. On my site visit I observed that this entrance/exit point has now been blocked off for public use.
6. The proposed access gates would restrict public access to Sherborne Place from the two access points on Sherborne Street, such that it would become a gated community.
7. I recognise that the creation of gated communities does not necessarily represent good design. This is set out in the National Design Guide (2019) which suggests avoiding features that could create actual or perceived barriers. I have also been mindful of the Birmingham Design Guide: Principles Document (2022) (BDG) and the Birmingham Design Guide: Streets and Spaces City Manual (2022) (BDG SS). In particular, City Note SS-10 of the BDG SS highlights that gated developments will not normally be accepted. However, this is guidance rather than policy and the word normally, does indicate an element of discretion depending on the site circumstances.
8. The appellant submits that the proposed gates are required for safety and security reasons due to crime within the development, along with other issues such as harassment of residents and property damage. Comments from West Midlands Police reinforce that there is a problem with high crime in the area and they are supportive of the proposal to make the site more secure. They state within the development itself, in a four month period there were four recorded crimes, including anti-social behaviour and burglary. I also note resident concerns regarding crime experienced and existing crime prevention measures that the appellant is using.
9. Paragraph 96 of the National Planning Policy Framework (the Framework) also sets out that planning decisions should aim to achieve inclusive places which promote social interaction, through street layouts that allow easy pedestrian and cycle connections that are safe and accessible. A gated community creates a conflict here as it may make the development safer, but then the development is not readily accessible.
10. In this case, the Sherborne Place development provides very limited pedestrian or cycle through-access or connectivity to the wider Ladywood area. The arrangement of the road with the two access points coming out on Sherborne Street is such that it does not provide any efficient journey route, shortcut or reduction in journey time for the public. Moreover, I observed no seating or places to dwell. Therefore, in my mind, the only reason why someone would access the road would be if they were a resident, visiting a resident or a canal user requiring access to the canal moorings. In all these cases, access would be provided via a key fob, key code or by residents letting visitors in.
11. Thus, I do not consider the proposal would have a harmful impact on either the pedestrian connectivity or sustainable modes of travel between the appeal site and its surroundings. Furthermore, whilst there would be a reduction in the physical permeability of the site, which for the forementioned reasons would

not be detrimental, the proposed use of railings for the gate would ensure a degree of visual permeability would be maintained.

12. Given the circumstances outlined above, in this specific case, with the crime concerns and the sites existing connectivity, I consider deviation from the BDG and BDG SS guidance is justifiable. I also have no substantive evidence before me to demonstrate that the gates would inflate any fear or sense of crime. Furthermore, Paragraph 96 of the Framework also requires safe places so that crime and the fear of crime does not undermine the quality of life. This is also reflected at Paragraph 116 of the Framework which states that development should create places that are safe, secure and attractive. The proposal would accord with these requirements.
13. I have also been mindful that the appellant has asserted that should the appeal not succeed then some form of gates could be erected without the need for planning permission. Given that a pedestrian access point adjacent to the canal has already been restricted and because of the current security issues on site and cost of existing security measures employed by the appellant, I am satisfied that there is a greater than theoretical possibility that such a fallback would be implemented. Whilst such a gate would be lower than the proposal before me, it would nevertheless restrict pedestrian and vehicle access and I give this considerable weight.
14. For the reasons given, I find that the proposed gates would not detrimentally affect pedestrian connectivity and permeability of Sherborne Place with the surrounding area. Whilst it would conflict with Policy PG3 of the Birmingham Development Plan (2017) (DP) in so far as it requires inclusive environments, it would accord with the part of this policy that requires the creation of safe environments that design out crime. I find that the material considerations in this case are sufficient to outweigh the conflict with part of this policy.
15. The proposal would also be in accordance with Design Principle 4 of the BDG and City Note SS-9 of the BDG SS which requires routes to be safe and efficient and Design Principle 10 of the BDG in so far as the neighbourhood would remain sustainable with local facilities and services remaining accessible.
16. Policy TP28 of the DP has been cited on the decision notice. This relates to new housing; it has therefore not been determinative in this appeal.

Other Matters

17. The Birmingham Canal Old Line is a non-designated heritage asset and lies to the north of Sherborne Place. The significance of this asset is in part derived from its historical association as a transportation hub. Given the form of development and location of the gates facing Sherborne Street, away from the canal, the significance of the non-designated heritage asset would not be harmed.
18. I have considered the Council's argument that the grant of planning permission could set a precedent for other similar developments. However, each appeal is determined on its individual merits. A generalised concern of this nature does not justify withholding permission in this case.
19. I accept that the area is undergoing wider redevelopment, however there is no evidence to suggest that this proposal would undermine future permeability of other development sites within the surrounding area.

20. The Council contends that the proposal would create a 'dead end' for the canal users who have access to the canal towpath that may not have access codes to the proposed gates. However, the appellant asserts that such users already require a key code to access the moorings and such an approach could be extended in this case. I have no reason to think that such an approach would not work and I am satisfied that such users would be able to gain access through the proposed gates, given they already require an access code. Whilst the Council considers this presents further security concerns, it does not expand on what these concerns might be. In any case, access would be substantially restricted over the existing situation.
21. The Council considers the gates would increase the presence of unnecessary street clutter. However, I do not consider the gates unnecessary because of the forementioned issues, nor would I consider them as street clutter in the same way as perhaps an excessive amount of street furniture.
22. An interested party has raised concern over whether there would be emergency vehicle access. The submitted plans confirm that private access gate 'C' is for emergency use only.
23. Issues regarding key fobs and the use of Artificial Intelligence technology would be a matter between the relevant parties and it has not altered my position in relation to the main issue.
24. The proposed gates would be set back from Sherborne Street within the Sherborne Place development and as such would not be a physical obstruction for pedestrians walking down Sherborne Street.
25. Concern has been raised by an interested party that the proposal would present an obstruction to accessing safer shorter routes in the area. For the reasons already set out, the existing layout does not provide shorter routes within the area and crime has been identified an issue within the development. Another interested party has suggested the proposed gates would prevent access to the channel path via Brindleyplace. The development does not provide any such through access. The gate being referenced may relate to the canalside gate, for which permission is not being sought as part of this appeal.

Conditions

26. In addition to the standard time period for commencement of the development, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. A plan detailing the canalside gates was submitted as part of the appeal for illustrative purposes only. As planning permission is not being sought for these, as confirmed by the appellant, this plan has been omitted from the approved plans condition.

Conclusion

27. For the reasons given above, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to conditions.

T Bennett

INSPECTOR