

Appeal Decision

Site visit made on 17 June 2024

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11th July 2024

Appeal Ref: APP/P4605/W/24/3336620
107 Rednal Road, Birmingham, B38 8DT

- 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 Fara Gohari against the decision of Birmingham City Council.
 - The application Ref is 2023/04214/PA.
 - The development proposed is described as the change of use of lawful outbuilding to dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. Reference has been made to the planning history of the site and surroundings. Of particular significance, to my mind, are the appeal decision¹ and the subsequent grant of planning permission² for the retention of an outbuilding on the site. These are material to my considerations and attract significant weight.
3. The appeal was concerned with the retention of a single storey building, which had been erected without planning permission, and its proposed use as a dwelling. For the reasons set out in the Inspector's decision letter, he found the development would offend both the character and appearance of the area.
4. The Council has since permitted the retention of the outbuilding, albeit reduced in size when compared with that subject of the appeal. The permission is conditional to the effect that the building should be used on an incidental basis to 107 Rednal Road. The appellant now wishes to use the permitted outbuilding as an independent dwelling. The outbuilding and surrounding land has been fenced off from 107 Rednal Road, which has a much-reduced garden area as a result.
5. The Council acknowledges that in granting permission for the retention of the outbuilding it implicitly accepted that its appearance was considered satisfactory, notwithstanding the Inspector's comments on this aspect in the earlier appeal decision.

¹ Ref APP/P4605/W/21/3270387 dated 18 June 2021

² Ref 2022/06302/PA dated 8 December 2022

6. The Council's second reason for refusal suggests that insufficient information was submitted to demonstrate that the proposal would not cause harm to highway safety. During my site visit I drove into the site on an already built access driveway and parked within. When leaving, I could easily turn thus enabling me to egress in forward gear before joining Rednal Road. I am satisfied that a safe access and adequate car parking facilities could be provided, and any modifications necessary to the existing access and parking/turning area could be achieved by the imposition of a condition in the event of planning permission being granted.

Main issue

7. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

8. The appeal property resembles an unoccupied, vacant bungalow. All residential properties within sight of it are substantial two-storey properties, including those recently built alongside and to the west of No 107. Thus, on this score alone, the structure in my opinion is completely at odds with and out of character with the nature of the buildings surrounding it, irrespective of the 2022 permission.
9. In terms of the wider local character and the pattern of development, very little has changed since the previous Inspector conducted his site visit. The two-storey dwellings alongside No 107 have since been built, but the Inspector was aware that the dwellings were already permitted and could thus picture their future impact. I share the previous Inspector's views as to the main building blocks and elements contributing to forming local character. These are clearly set out in the earlier decision letter.

10. I share his strongly expressed view that:

Therefore, at a fundamental level, the development disrupts the site's role in preserving the prevailing pattern of the development, harming the area's character and appearance.

11. And,

Ultimately, the wider and prevailing pattern of development remains larger dwellings on larger plots of land and this should be protected from piecemeal backland development that might slowly erode it over time.

12. The appellant argues that the proposed development '*is fundamentally different to that previously refused and dismissed on appeal and thus not comparable.*' I disagree. Although the building is smaller than that assessed at appeal in 2020, it has similar impacts, notwithstanding the planning permission granted since. It remains incongruous and uncharacteristic of the general pattern of local development. That the appellant has erected a fence to subdivide No 107's garden has merely underlined and emphasised the harmful impact on local character.
13. The appellant, in my view, fails to appropriately distinguish between the concepts of '*character*' and '*appearance*' in planning practice. The distinction is

recognised by the courts, including recently in the Court of Appeal³. While the building may be of an acceptable appearance to the Council, it does not naturally follow that it sits appropriately in its spatial context in terms of character, as the appellant appears to suggest.

14. Notwithstanding the Council's 2022 decision, I conclude that the development has already and would continue to harm the character and appearance of the area. Accordingly, a clear conflict arises with those provisions of Policies PG3, TP27 and TP30 of the Birmingham Development Plan reflecting the importance of reinforcing local distinctiveness, a strong sense of place and preserving local character when considering development proposals.

Other matters

15. I note the references to other development plan policies, but those to which I have referred are considered the most relevant in this case. I have also noted the references to the *National Planning Policy Framework* (The Framework).
16. The appellant considers that favourable consideration should be given to the proposal on account of the failure of the Council to make an adequate supply of housing land available within its area. The proposal would make a very limited contribution to improving the supply of housing in the City. Having regard to the planning history and background, and what I saw, I consider that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. I have taken account of the views of local residents, but no other matter raised is of such strength or significance as to outweigh those considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

³ *Kazalbash v Secretary of State for Levelling Up, Housing And Communities* [2023] EWCA Civ 904