



Appeal Decision

Site visit made on 18 June 2024

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/P4605/W/23/3332724

6, 10 & 12 Sarehole Mill Gardens, Birmingham B13 8BP

- 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 Hussain against the decision of Birmingham City Council.
 - The application Ref 2023/03169/PA, dated 13 May 2023, was refused by notice dated 4 July 2023.
 - The development proposed is retrospective conversion of existing loft into additional living space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development has already occurred and therefore I am considering the proposal retrospectively.

Main Issue

3. The main issue is whether the development would provide adequate living conditions for occupiers in terms of internal space.

Reasons

4. The appeal relates to 3 bungalow style dwellings granted planning permission in 2011. The 2011 permission approved plans with all the living accommodation, comprising a kitchen/living room, bathroom, and 1 bedroom, located on the ground floors of the dwellings. The appeal development alters the internal layout of the bungalows to provide a kitchen, living room, and WC on their ground floors, with 1 bedroom and a bathroom within their roof spaces. The appeal development introduces 3 rooflights to each of the dwellings to provide natural light to their roof areas.
5. The Council advises that planning permission for the development is required because condition 6 of the 2011 permission removed permitted development rights for the enlargement, improvement, or other alteration to the dwellings' roofs. Whilst I have not been provided with a copy of the 2011 permission, the aforementioned removal of permitted development rights has not been disputed by the appellant and I have determined the appeal on that basis.
6. Policy DM10 of the Development Management in Birmingham Development Plan Document 2021 (the DPD) requires all residential development to meet the minimum Nationally Described Space Standards (NDSS).

7. The NDSS set out that a 1-bedroom, two-storey property should provide a minimum 58sq m of Gross Internal Area (GIA), including a double (or twin bedroom) with a floor area of at least 11.5sq m that is at least 2.55m wide. The NDSS states that any area with a headroom of less than 1.5m is not counted within the GIA unless used solely for storage. Furthermore, the NDSS requires that the minimum floor to ceiling height is 2.3m for at least 75% of the GIA.
8. The plans submitted by the appellant indicate that the bedrooms in the loft areas provide a GIA of 12.6sq m where headroom is not less than 1.5m. Whilst the Council disputes the accuracy of the appellant's measurement of the bedrooms' GIA, I have been provided with no substantive evidence that demonstrates it is incorrect. Nevertheless, it is clear that the development results in dwellings that fail to provide a minimum floor to ceiling height of 2.3m for at least 75% of their GIA. The limited ceiling height of the bedrooms and bathrooms results in an oppressively confined form of living accommodation that would be detrimental to the health and wellbeing of the dwellings' occupants.
9. Having regards to the above, the dwellings fail to meet the minimum NDSS, and fail to provide adequate living conditions for occupiers in terms of internal space. The development is, therefore, contrary to policies PG3 and TP27 of the Birmingham Development Plan (2017), DPD policies DM2, DM10 and DM12, and the Birmingham Design Guide. Taken together, these policies require development to, amongst other things, demonstrate high design quality that does not result in unacceptable adverse impacts on the amenity of occupiers. Furthermore, the development fails to accord with the National Planning Policy Framework (the Framework) requirement that development ensures a high standard of amenity for existing and future users.

Conclusion

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. The proposal would conflict with the development plan when read as a whole and there are no other considerations that outweigh that identified conflict.
11. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR