



Appeal Decision

Site visit made on 16 July 2024

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31ST July 2024

Appeal Ref: APP/P4605/W/24/3343174

18 Culham Close, Birmingham B27 6PP

- 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 Curtis Burke against the decision of Birmingham City Council.
 - The application reference is 2023/05830/PA.
 - The development proposed is the erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appellant has requested that the appeal be determined with consideration given to an additional plan¹, which shows a different internal layout to the new dwelling compared to the scheme that was refused planning permission. The Council has neither formally considered this extra drawing nor consulted others on it. Nevertheless, as the revised plan includes a minor alteration, with no change sought to the substance of the appeal scheme, I am satisfied that no injustice would be caused if I were to consider it. As such, I shall deal with the appeal based on the plans provided at both the application and appeal stages.

Main issues

3. The main issues are the effect of the proposed development firstly, on the character and appearance of the local area; secondly, on the living conditions of the occupiers of 18 Culham Close with regard to outlook and light; and thirdly, whether the proposal would provide satisfactory living conditions for future occupiers with reference to outlook and visual impact.

Reasons

Character and appearance

4. The proposal is to erect a detached single storey dwelling on land towards the rear of the back garden of No 18, which is an end of terrace house within a predominantly residential area. The plot would be subdivided between the existing and proposed dwellings, with a shared access provided along the existing driveway that runs to one side of the main house.
5. Within Culham Close, which provides the immediate context for the proposal, 2-storey residential buildings of similar design and age predominate. As I saw

¹ Drawing number 3896_10 Revision A

no examples of back-land housing within Culham Close, as would be the case here, this type of development is not a strong or defining characteristic of the area to which No 18 belongs. In that context, a new self-contained detached dwelling on a plot that is away from the road and surrounded by the gardens of neighbouring properties would be incompatible with the prevailing pattern of development locally, where 2-storey pitched roof dwellings, arranged in a linear way with visually strong build lines to directly face the road, predominate. From what I saw, single storey dwellings with a flat roof and a narrow 'L' shaped garden to the side and rear, as proposed, was also not a familiar feature of housing in the local area. Due to its backland position, contrasting built form and layout, the proposal would be an obtrusive, incongruous and therefore unwelcome addition to the local area.

6. The appellant places some reliance on the Council's recent decision to issue a lawful development certificate² (LDC) for a detached single storey outbuilding on the site. From the details provided, the outward appearance of the new dwelling and its position within the back garden would be almost the same as its LDC counterpart. As the LDC scheme could come forward in any event, it is a realistic fallback position against which the proposal should be evaluated.
7. While the visual qualities of the new building would be very similar in each case, the appeal scheme differs in that it would result in the subdivision of the site into 2 distinct residential plots. The character of the site would be transformed from a suburban rear garden to one occupied by new built form where people would independently live and visit. This arrangement would be atypical of the area of which the site forms part. An outbuilding, in contrast, would be used for a limited range of ancillary activities to the main house such as storage, home office and exercise as an integral part of a single residential unit. Such uses are typically found within garden settings. So, while the proposed building would appear very similar to the LDC scheme, the effect on the character of the locality, which embraces all the qualities that distinguish an area, would markedly differ. Therefore, I attach no more than limited weight to the fallback position in support of the appellant's case.
8. The main body of the site would not be readily evident in the local street scene given its position at the back of existing buildings. However, the land encompasses the characteristics of the local area as it is experienced and appreciated from nearby dwellings and gardens. Having carefully viewed the site, I am in little doubt that from these vantage points the proposal would draw the eye as a disruptive and uncharacteristic intrusion into rear garden.
9. Additional planting could mitigate the visual impact of the proposal, to some extent. The type of external materials to be used could also be covered by a planning condition. However, even considering detailed design considerations, the proposal would not be readily assimilated into the well-established pattern of existing development due to its location, design and layout.
10. On the first main issue, I conclude that the proposed development would cause significant harm to the character and appearance of the local area. As such, it conflicts with Policy PG3 of the Birmingham Development Plan (BDP) and Principles 1, 2, 3 and 14 of the Birmingham Design Guide: Principles Document (BDG). Taken together, this policy and guidance aim to ensure that development is appropriate to its location and contributes to a strong sense of

² Reference 2023/01103/PA dated 17 April 2023

place. It is also at odds with the National Planning Policy Framework (the Framework), which states that development should positively respond to local character and add to the quality of the overall area.

Living conditions: No 18

11. At the rear of No 18 is a full width ground floor projection, which is referred to as a conservatory and is intended to be retained. As this conservatory covers the main rear elevation, it would significantly affect views from and the natural light to the ground floor rear window and doors of the house, which appear to primarily serve a kitchen. A boundary fence, erected to separate the existing and new plots, would also have a significant effect in these regards. In those circumstances, the introduction of a new built form away from the rear of No 18, as proposed, would have little effect on the quality of outlook and source of lighting to these kitchen openings. For this reason, a breach the 45-degree code, which is line drawn at this angle from habitable room windows that are likely to be affected by a development, would be insufficient reason to withhold planning permission.
12. On the second main issue, I conclude that the proposal would not cause significant harm to the living conditions of the occupiers of No 18. As such, it does not conflict with BDP Policy PG3, Policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document (DPD), the BDG or the Framework insofar as they aim to protect residential amenity.

Living conditions: future occupiers

13. Based on the refused plan, the proposed bedroom would be single aspect with a window directly facing the rear boundary of the site at close quarters. This bedroom window would look out onto a narrow and largely enclosed garden. This arrangement would be detrimental to the living conditions of future occupiers because the confined outlook from a main habitable room would be unacceptably poor. It would feel oppressive to future occupiers.
14. To remedy this problem, the revised internal layout shows the bedroom window to face towards the driveway. However, anyone using the parking spaces adjacent to the new dwelling, which are intended to serve occupiers of No 18, would potentially be able to see through the window into this bedroom at close range. The privacy of the users of this bedroom, and the potential noise and general disturbance from vehicles entering and exiting the parking spaces, would be compromised as a result. Closed blinds or curtains could prevent these overlooking problems. However, the consequent loss of natural light and outlook would make this bedroom feel too gloomy and uninviting.
15. The main living area of the dwelling would be open plan and served by good sized windows on 3 sides, which would allow a reasonable outlook from and good level of natural light to reach this room. Despite being close to the site's boundaries on 2 sides and falling short of the Council's minimum separation distances to them, this would not in itself justify a refusal of permission.
16. Nevertheless, I conclude on the third main issue that the proposal would fail to provide satisfactory living conditions for future occupiers. That the new accommodation would not be occupied if it was of poor quality is not a reason to allow an unacceptable form of development. Accordingly, it conflicts with DPD Policy DM2 and BDG Principle 13, which state that all new development

does not have an unacceptable impact on the amenity, outlook or privacy of existing or new residential properties. It is also contrary to the Framework, which notes that development should create places with a high standard of amenity for existing and future users.

Other considerations and the planning balance

17. The appellant has provided evidence that the Council is unable to demonstrate a 5-year supply of housing over the period 2021 to 2026. As such, paragraph 11d of the Framework applies, which states that 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 add to the supply of housing on an urban site with access to day-to-day services and local facilities. However, the addition of one residential unit would make a minimal contribution to addressing the Council's shortfall in housing land and in meeting the Government's strategic objective of significantly boosting the supply of homes. The appeal scheme would contribute to the choice of accommodation available to future occupiers although in a limited way given the modest scale of development. It would also make efficient use of the available space within the site. The appellant also states that the proposal would improve the parking and access arrangements to the property and that the new building would be well insulated with low energy costs for future occupiers. Even taking account of these positive factors and the Council's housing land supply position, the failure to respect the character and appearance of the area and provide satisfactory living conditions for future occupiers would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
19. Reference is made to other examples of development in back-land locations that have been approved with some details and photographs provided. In my experience, it is rare that direct parallels can be drawn between one site and another because local circumstances often vary. From the limited information provided, there are significant differences in terms of location, proposals and characteristics between the various sites quoted such that preclude any meaningful comparison with the appeal scheme. In any event, each development should be assessed on its own merits, as I have done.
20. Interested parties raise several additional concerns including light, privacy, noise, smells and general disturbance, drainage, trees, vehicle parking and movements, highway safety, wildlife, precedent, flood risk, over development and the risk of contamination. These are all important matters and I have considered all the evidence before me. However, given my findings on the first and third main issues, these are not matters on which my decision has turned.

Conclusion

21. The proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Gary Deane INSPECTOR