



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: 7 August 2024

Appeal Ref: APP/P4605/W/24/3339664

1055 Yardley Wood Road, Billesley, Birmingham B14 4BN

- 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 Joe Harte against the decision of Birmingham City Council.
 - The application reference is 2023/07100/PA.
 - The development proposed is described as two number new build house types as per drawings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The name of the appellant is given as Mr John Brookes on the planning appeal form, whereas the name appearing on the application form lodged with the Council is Mr Joe Harte. As the right of appeal rests solely with the original applicant, I have proceeded on the basis that Mr Joe Harte is the appellant.
3. Although the address of the site is given as in the above heading, the land edged red on the plans is largely to the side and rear of this property.
4. While the appellant has described the proposal as in the above heading, the Council has referred to it as the erection of 3 dwellings with associated access, parking and landscaping. From my inspection of the plans, I consider that the Council's description more clearly and fully reflects the development sought. I have assessed the proposal on that basis.
5. Revised plans have been submitted which illustrate a proposal that differs in scale and design compared to the drawings that accompanied the application. To my mind, these changes result in a scheme that is different in substance to the development that was refused planning permission. The Council has not formally considered these amended plans, nor has it consulted others on them. Interested parties could, therefore, be prejudiced if I were to consider these additional drawings. Therefore, in the interests of fairness, I have not done so.

Main Issues

6. 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 nearby residential properties; and thirdly, whether the proposal would provide satisfactory living conditions for future occupiers.

Reasons

Character and appearance

7. The proposal is to erect 3, two storey dwellings in the form of one detached house and a semi-detached pair on neglected and unkempt land adjacent to 1055 Yardley Wood Road, which is a semi-detached dwelling within an area of mixed character. As the new dwellings would occupy a back-land position, to the rear of existing properties, the proposal would markedly contrast with the more traditional linear pattern of existing housing that tends to directly address the road. I saw very few examples of back-land housing development in the locality nor have any cases been brought to my attention. In that context, the proposal would be at odds with the established pattern of existing residential development and therefore an incongruous addition to the local area.
8. The proposed block plan shows the new buildings close to the boundaries of the site with areas for vehicle parking to one side and small gardens. When seen from the new access driveway, this arrangement would appear unduly cramped in terms of layout because there would appear to be limited space around the new built form. I appreciate that alternative layout options to resolve these particular concerns are limited given the constraints of the site, notably its irregular shape, the close relationship to adjacent residential gardens, and the route of a single access to serve the development from Yardley Wood Road.
9. On the first main issue, I therefore conclude that the proposed development would cause significant harm to the character and appearance of the local area. As such, it conflicts with Policies PG3 and TP27 of the Birmingham Development Plan (BDP), Policy DM2 of the Development in Birmingham Development Plan Document (DPD), the Birmingham Design Guide Supplementary Planning Document (SPD), the National Design Guide and the National Planning Policy Framework (the Framework). Together, these policies and guidance aim to ensure that development is appropriate to its location, is sympathetic to local character and adds to the overall quality of an area.

Living conditions – existing occupiers

10. The rear elevation of the new pair of dwellings would be up to and parallel with the boundary of the site beyond which are the 2-storey dwellings that address Crest View. In this position, views from the proposed first-floor rear windows towards the back gardens of 19 and 21 Crest View would be from an elevated position, almost direct and at close range. The overlooking possible from these new windows would unacceptably diminish the reasonable enjoyment of these gardens by their users due to a significant loss of privacy.
11. The proximity of what would be a substantial amount of new built form close to and along much of the rear garden boundaries of Nos 19 and 21 would also result in an over-dominant impact on outlook. For the same reason, the presence of the new built form would feel overly imposing when seen from the private outdoor space at the rear of these neighbouring properties.
12. On the second main issue, I conclude that the new pair of dwellings would unacceptably harm the living conditions of the occupiers of Nos 19 and 21. Accordingly, this element of the appeal scheme is contrary to BDP Policies PG3 and TP27, DPD Policies DM2, DM6 and DM10, the SPD and the Framework insofar as they aim to safeguard residential amenity.

Living conditions – future occupiers

13. Given that the new buildings and parking arrangements would be set back from the main road, the development would not immediately obvious in the local street scene. This arrangement would sit uneasily with the general principles of good design, which are that the main entrances to dwellings should be visible, clearly identifiable and directly accessible from the public realm.
14. Access to the new dwellings from Yardley Wood Road would be along an unlit driveway between the flank wall of No 1055 and the site's boundary. With few windows facing onto the new driveway, there would be lack of natural surveillance for those walking or cycling to and from the new houses. The prospect of entering a partly concealed corridor between the road and the new dwellings would be uninviting for most people especially after dark and even intimidating especially for some visitors unfamiliar with the local area.
15. The new driveway could be externally lit, as the appellant suggests, with a secure gated entrance and entry system introduced that would signal the route to the new dwellings from the road. However, even with these measures in place, the proposed access could not reasonably be described as welcoming, attractive or contributing to a pleasant sense of arrival. In my experience, these are key design considerations for new residential development.
16. Some of the rooms within each new dwelling of the pair would be small and the overall amount of internal space would fall below the minimum standards set out in the Government's Technical Housing Standards: Nationally Described Space Standard. The main purpose of these standards is to ensure that living accommodation achieves an acceptable level of quality. The resultant effect is that future occupiers would find the living accommodation within each dwelling of the pair to be cramped and confined.
17. The modest size of the proposed gardens and their position just to one side of the buildings would combine to restrict the value of these areas as attractive and useable private amenity space (PAS). While the size of the gardens could be increased, as the appellant has indicated, the quality and usability of the proposed PAS, which again are important design considerations in new residential schemes, particularly for family sized accommodation as proposed, would be limited. The poor quality of the PAS would compound the unsuitability of the living accommodation for future occupiers.
18. Based on the refused plans, the rear ground floor rooms of each dwelling would include windows that directly face the boundary of the site at close range. Given the likelihood that these boundaries would be marked by a solid fence or wall, the outlook from, and the natural light reaching to, the rooms served by these windows would be poor. This arrangement would heighten a sense of enclosure for future occupiers and feel oppressive. That feeling would be most acute within the lounge and dining room of each new semi-detached dwelling, which is single aspect with windows that would face the site's boundary.
19. For all these reasons, I conclude on the third main issue that the appeal scheme would not provide satisfactory living conditions for future occupiers. As such, it conflicts with the planning policies and guidance cited by the Council, which broadly aim to ensure that development creates places that are safe, promote well-being, and seek a high standard of amenity for all users.

Other matters

20. As the site includes vegetation and dilapidated buildings, the presence of protected species and habitats such as nesting birds and roosting bats is a possibility. These are protected species under the Habitats Regulations¹ and are subject to a high level of protection. Circular 06/2005² states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by a proposed development, is established before planning permission is granted. Otherwise, all relevant material considerations may not have been addressed in making the decision.
21. It is therefore important that developments likely to affect biodiversity contain adequate, up-to-date information to effectively evaluate the impacts before planning permission is granted. BDP Policy TP8 provides further detail. In the absence of that information, there is insufficient evidence to conclude that the proposal would not cause harm to biodiversity or that it would comply with BDP Policy TP8. It also conflicts with the Habitats Regulations and the Framework, which requires the planning system to contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
22. Adjacent to the site is a transport depot and there are parades of shops and commercial units close by, on Yardley Wood Road and School Road. Future occupiers could be affected by noise, vibration and general disturbance from activities associated with these uses or from traffic using Yardley Wood Road, which is a busy 2-lane highway as it passes the site's entrance. It is not certain whether any problems in these regards would necessarily materialise if the development were to come forward. However, the lack of adequate information to fully assess the effects of noise and vibration on future occupiers means that there is a possibility that such problems could arise, which adds to the objections that I have identified.
23. The proposed Block Plan lacks sufficient detail to fully assess whether the arrangements for vehicles to park and circulate within the site and for cycles and bins to be stored would meet relevant standards. Therefore, the proposal also fails to comply with BDP Policies PG3 and TP27, DPD Policies DM2, DM6, DM10, DM14 and DM15, the SPD and the Framework. Together, these policies and guidance seek to ensure that development is well designed.

The planning balance

24. The Council accepts that it is unable to demonstrate a 5-year supply of housing. 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.
25. The proposed dwellings would provide accommodation for the appellant and his daughter/grandson. In that way, the proposal would enable close-family members to get onto the property ladder. I am sympathetic to this desire, but

¹ The Conservation of Habitats and Species Regulations 2017, as amended

² Circular 06/2005, Biodiversity and geological conservation – statutory obligations and their impact within the planning system

personal circumstances seldom outweigh more general planning considerations. That the land has an unkempt appearance attracts limited weight because improvements to the site's condition and appearance could be achieved in other, less harmful ways than in the manner proposed.

26. 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 3 dwellings would make a limited 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 proposal makes use of under used land. Electric charging points for vehicles would also be provided.
27. Even taking account all these positive factors and the Council's housing land supply position, the harm caused to the character and appearance of the local area; the failure to provide a high standard of amenity for existing and future users; and the potential harm to biodiversity interests would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

28. 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