



Appeal Decision

Site visit made on 13 November 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2025

Appeal Ref: APP/P4605/W/24/3347558

Land to the Rear of 270 Rotton Park Road, Birmingham B16 0JH

- 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 Mudasser Liaqat (Haadi Housing Ltd) against the decision of Birmingham City Council.
 - The application Ref is 2024/01750/PA.
 - The development proposed is works to regularise unauthorised accommodation and full planning permission sought for external alterations to detached outbuilding in order to bring forward 3 no. 1-bed units (Class C3) with associated outdoor amenity area, landscaping and cycle parking provision.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to the determination of this appeal, a new version of the National Planning Policy Framework (the Framework) has been published on 12 December. Both main parties were asked for their views on the changes to the Framework and I have taken into account them in determining the appeal.

Main Issues

3. The main issues are the effect of the proposed development on a) the character and appearance of the area with specific regard to backland development, the cumulative effect of similar uses and the provision of Supported Exempt Accommodation (SEA); and b) the living conditions of future and neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Character and Appearance

4. The appeal site relates to a detached single storey building at the rear of No 270 which has been erected on the site of a bank of garages. It is currently used as six self-contained units of accommodation. The wider area is almost wholly single tier frontage development, the grain, structure, repetition and thus consistency of which contributes positively to the character and appearance of the area.
5. The appeal building is an alien feature, adding an extra tier in backland form which jars with the quality of the area's consistency. There are buildings to the rear of others locally, but these are mostly secondary ancillary/incidental ones which are part and parcel of primary uses. The appeal building is one such

primary use which has a fundamentally different character in having its own curtilage as well as a defined and independent access point. In terms of Parkside, to the north of the appeal site, this is a self-contained residential development which has its own road access and the dwellings therein are also single tier in their nature and layout and have their own street frontage. They are thus not sufficiently comparable to the appeal scheme such that it would be justified.

6. Policy DM12 of the Development Management in Birmingham Development Plan Document 2021 (DPD) relates to the provision of specialist accommodation and conversions. Subsection a) requires that cumulative effects of similar uses in the area are taken into account. Within 100 metres of the site there are approximately 90 dwellings. Within that there is a concentration of Houses in Multiple Occupation and SEA of approximately 27%.
7. The appeal scheme proposes to add three additional SEA units to that concentration. This would not increase it so significantly, given that it would equate to roughly a third for the identified area, that an imbalance would occur or necessarily materially affect the character of the area in tenure terms. I am also unaware of any explicit figure at which the development plan considers a saturation point or imbalance to have been reached or breeched when it comes to different tenure types in a given location.
8. In any event, the appeal scheme is not supported by any mechanism (an accompanying legal agreement as a planning obligation most likely) to secure the proposal as SEA or even affordable housing as the appellant suggests it would be. It would therefore be a development of three open market single bedroom units. I shall return to this matter in more detail below.
9. Notwithstanding this, the proposal would cause harm to the character and appearance of the area in the terms I have described. This would result in conflict with Policies PG3 and TP30 of the Birmingham Development Plan 2017 (BDP) and Policy DM2 of the DPD which together and amongst other matters seek to ensure that development is appropriate to its location and reinforces local distinctiveness. It would also not accord with the principles of the Birmingham Design Guide Design Supplementary Planning Document which, amongst other things suggests that proposals should be informed by a clear understanding of the surrounding area's character.

Living Conditions

10. Access to the flats would be via a narrow path between Nos 270 and 272 Rotton Park Road. This pathway would continue along the front of the flats. There is limited space between the front of the flats and the fences to the rear of Nos 141, 141a and 143 City Road which would lead to occupiers and visitors passing close to the windows of the flats, with associated potential noise and disturbance, particularly as the flats would be occupied as individual households with varying times of comings and goings that would not be coordinated or confined to particular parts of the day, in the manner a conventional household might. In addition, users of the path would pass close to the windows in the side elevation of No 270 Rotton Park Road leading to potential disturbance for those occupiers.
11. The proposal would therefore unacceptably harm the living conditions of future and neighbouring occupiers with particular regard to noise and disturbance. It

would accordingly conflict with Policy PG3 of the BDP and Policies DM2 and DM12 of DPD which together and amongst other matters seek to ensure that development would not result in unacceptable adverse impacts on the amenity of occupiers and neighbours.

Other Matters

12. I note the appellant's concerns regarding the Council's handling of the case and that additional reasons for refusal were included over and above those referred to in the Enforcement Notice. However, these are matters that would need to be taken up with the Council in the first instance. In determining this appeal, I am only able to have regard to the planning merits of the case before me.
13. There are several expressions of support for the proposal. This does not however absolve me from making an assessment of its effect in regard to the main issues that have been identified. I have done so and found it to conflict with the development plan for the reasons I have given.

Planning Balance and Conclusion

14. The Council state that they have a 4.38-year supply of deliverable housing sites. This is less than the 5 years required by the Framework and therefore paragraph 11 d of the Framework would apply. In terms of the Framework, the most important policies would be out of date, and I would be granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
15. The appeal scheme would cause harm in regard to the two main issues I have identified. These harms would be significant and long lasting. They would conflict with the relevant parts of the Framework which require high quality and contextually appropriate design and appearance and a high standard of amenity for existing and future users. I would ascribe these matters substantial weight.
16. The Framework says that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and they should be approved unless substantial harm would be caused. Given my findings in respect of the main issues, in the context of this appeal, the proposal would not amount to using a suitable brownfield site, particularly as one of the key aims of the Framework is to safeguard and improve the environment. It would not therefore benefit from the aforementioned substantial weight afforded by the Framework.
17. The Birmingham Housing and Economic Development Need Assessment 2022 suggests that in both the city and Edgbaston sub area 5% of open market new housing needs to be 1-bedroom accommodation. Completions data shows that approximately 32% of completions since 2011 have been for 1-bed properties. The appellants statement includes a Local Housing Needs and Affordability Statement which indicates that there is still a need for 1- bed and affordable housing and that there has been a reduction in the number of 1- bed properties for sale in June 2023 relative to June 2019. There thus seems to be a latent need for smaller units such as those provided by the appeal scheme. I would ascribe this moderate weight.

18. The proposal would also deliver housing in an undersupply situation which would bring with it other economic and social benefits and is supported by the Framework's principles. The weight I would give to these matters would however be tempered by the fact that a very small number of units would be delivered which would make a limited difference to supply and, by association, the economic and social benefits would be limited.
19. With this and the above in mind, I am satisfied that should I be assessing the proposed development against the circumstances of paragraph 11 d of the Framework then the adverse impacts of granting a planning permission for the appeal scheme would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As such, the presumption in favour of sustainable development, in this particular case, would not apply. There are thus no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

H Senior

INSPECTOR