



Appeal Decision

Site visit made on 25 March 2025

by **A J Sutton BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 May 2025

Appeal Ref: APP/P4605/W/24/3352739

Site of Former Garage Block, Charlecott Close, Moseley, Birmingham B13 0DE

- 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 Jacoby Place HL Ltd against the decision of Birmingham City Council.
 - The application Ref is 2024/01246/PA.
 - The development proposed is described as 'Demolition of Existing Garages and Erection of Eight No. 2-Bed Apartments in Two 2-Storey Blocks with Vehicle and Cycle Parking and Associated Works.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of neighbouring residents in Willersey Road, with particular regard to outlook; and
 - Whether the proposal makes suitable provision for parking.

Reasons

Character

3. The appeal site is a corner of a wider area comprising five apartment blocks. Arranged around a cul-de-sac, these existing blocks form a pleasing pattern of development that is positively characterised by a distinct sense of green space around the apartments.
4. Neighbouring the existing blocks is the Lodge; a detached dwelling that appears singular in this setting. However, its relatively modest form ensures that it has as subordinate presence such that this anomalous property does not harmfully disrupt the distinctive development pattern and strong sense of spaciousness in Charlecott Close.
5. The surrounding residential development is set in a more traditional linear plot form and these plots generally comprise single dwellings. Similar to properties on Charlecott Close, these dwellings largely have significant street frontage.
6. The appeal site accounts for a substantial corner of the existing cul-de-sac development. While some of the site may already be hardstanding, a significant section of the site includes relatively green undeveloped space close to two existing apartment blocks.

7. This proposal would result in two new apartment blocks covering a considerable portion of the site. Moreover, these new blocks would be fronted by a significant area of hard standing. As such, while there would be space for green features at its boundaries, the new structures would appear comparatively cramped into this corner and a substantial part of the site would be covered by development. In turn the additions would considerably erode the existing sense of space in this immediate vicinity and would be at odds with the green and spacious layout evident in the wider cul-de-sac. A lower building height than the existing apartment blocks would not adequately compensate for this harmful erosion of character.
8. It is understood that this part of the site previously hosted some built form, but those were single storey. In this case, the development would have two storeys, such that even featuring a flat roof, the new buildings would fill space at the upper floor level, which was not the case previously in this location.
9. Also, the two sizeable blocks would be near the rear boundary of the site and some distance from the road. While it is contended that the new access would appear like a new road, the submitted plans show this access to be considerably narrower than the existing cul-de-sac, which is already a secondary estate road. With features akin to a driveway, indeed described as such on the submitted plans, the new blocks would have limited street frontage on Charlecott Close.
10. Although the new blocks would front a section of the access, this would be a relatively short strip of hardstanding for vehicle turning. It would be distinctly different in this regard in appearance from the surrounding estate road network. Therefore, not only would the development significantly diminish the sense of space, but it would be seen as an incongruous feature out of keeping with the general prevailing pattern of development. Relating poorly to surrounding development in this way, the proposal would not be a good design.
11. It is asserted that the proposed structures would reflect the height of dwellings on surrounding roads such as The Hurst and Willersey Road. This may be so, but with frontages on different roads, those existing built forms have limited influence in respect of visual changes made at the appeal site.
12. This scheme proposes a lower number of new units and scale of built form than the previous scheme at the site which was dismissed on appeal in 2023. But the difference involved is just two apartments. Attention is also drawn to an extant planning permission for residential development at this location. However, that is for four units in a single block, such that the coverage of the site and loss of spaciousness resulting from that development is significantly less than that which would occur if this appeal succeeded. The level of disruption to positive existing features in this setting would be considerably greater in this case given the scale of development proposed. These matters have not altered my findings for these reasons.
13. Examples of similar development on Cateswell Road and Merlin Road have been referenced. However, those roads are some distance away, and their street pattern and character differs significantly from that of the appeal site. Accordingly, those examples in the wider area attract very limited weight in this appeal.
14. I am directed to the Council officer's positive comments regarding the visual impact of development in this location. Be this as it may, character is a matter of judgement, and for the reasons set out, I find that this proposal would significantly harm the existing positive character in this location.

15. Therefore, for the reasons outlined above, the proposal would significantly harm the character and appearance of the area. In this regard the proposal would conflict with Policies PG3 and TP27 of the Birmingham Development Plan. These Policies collectively, amongst other matters, state all development will be expected to demonstrate high design quality.

Living Conditions

16. As previously stated, the appeal site is relatively open. It is currently devoid of significant structures and even when it did host some built forms, these were limited to single storey garages.
17. The two new blocks would be located less than 3.5 m from the rear boundary of 32 – 40 Willersey Road. These properties have modest sized rear gardens, bounded by fences no more than two metres in height. Some of these properties have outbuildings in their gardens, but they are single storey structures. Therefore, the general outlook for occupants of these existing dwellings, when in their rear gardens, is of relatively undeveloped space and sky above the rear boundary fences.
18. It is contended that the proposal would meet the separation standards set out in locally adopted design guidance. This is advisory with the aim to ensure reasonable living conditions. In this context, a significant part of the proposed flat roof buildings would protrude above the rear boundaries of Nos 32 – 40, considerably filling the existing space at the upper floor level. Set close to the shared boundary and at the width, height and scale proposed, the new additions would be a dominating presence for occupants when they are in their rear gardens. The current sense of openness above the rear fences would be considerably diminished.
19. While there is already permission for residential units on this site, that is for just one block further away from the boundary than would be so with this scheme. In this case, with considerably more built form than would occur under the extant permission, the new structures would appear overbearing. The outlook from these neighbouring gardens would be altered from pleasant to oppressive and would be considerably less enjoyable spaces to use.
20. The appellant has presented examples of properties with a small amount of separation from their neighbours. However, regarding Cateswell Road, it is suggested that this redevelopment improved the original circumstances on the site. Turning to Knutswood Close, the evidence indicates that this involves a single storey dwelling. Those existing developments are distinctly different in these respects from the appeal scheme. In any event, development elsewhere should not justify poor living conditions at the appeal site. My findings are unaltered accordingly.
21. It is highlighted that the Inspector in the 2023 appeal decision for 10 units at the site found no harm in respect of overlooking and overshadowing. Despite this, the Council's reasons for refusal for this eight unit scheme includes overlooking. However, this harm is not identified in either the officer's report at the application stage or in the Council's appeal statement. This therefore appears an error on the decision notice.
22. There would be obscured glazing on the rear elevation of the new blocks. As such, I agree with the previous Inspector's view that the privacy for occupants of nearby properties on Willersey Road would not be unacceptably harmed by this proposal.
23. However, I have found that this proposal would have a significant harmful effect on the living conditions of neighbour residents in Willersey Road, with particular regard to outlook. The proposal in this respect would not accord with Policy PG3 of the Birmingham Development

Plan and Policies DM2, DM6 and DM10 of the Development Management in Birmingham Development Plan Document (DPD). These Policies collectively require, amongst other matters, that development should not result in unacceptable adverse impacts on the amenity of occupiers and neighbours.

Parking

24. The National Planning Policy Framework (the Framework) states that development should only be refused on highway grounds if there would be an unacceptable impact on highway grounds.
25. Concerns have been raised about the current level of parking in the area. However, the evidence shows that provision would be made for off street parking for both future occupants and their visitors that accords with the standards set out in the Parking in Birmingham SPD. As such, while there may be a greater demand for parking as a result of the development, with provision in the site, this demand would not significantly alter the current parking situation in the wider area.
26. The parking spaces proposed for future occupants would be close to the new blocks and safe and convenient in this regard. The visitor parking would be along the proposed driveway, roughly aligning with the side of Falstaff House, and there is concern about the lack of a separate footway and whether this would provide an appropriate level of surveillance. However, this would be a relatively short, straight driveway and as such there would be reasonable intervisibility between pedestrians and vehicle users, thereby preventing conflict arising.
27. Also, there is no indication that this visitor parking would be enclosed by boundary fences to the east. As such this part of the site would appear relatively open with a sense of being overlooked, albeit obliquely, from sections of Falstaff House and even the new blocks set back in the site. Even with some vegetation, there would be some sense of surveillance in this part of the site. Accordingly, I find no compelling evidence that this layout would increase crime, antisocial behaviour or indeed lead to unsafe conditions even when dark.
28. I therefore find that the proposal would make suitable provision for parking. In this regard the proposal would accord with Policies PG3 and TP27 of the Birmingham Development Plan and Policies DM2, DM6, DM10, DM14 and DM15 of the DPD. These Policies collectively require the consideration of safety of highway users, crime, fear of crime and anti-social behaviour.

Other Matters and Planning Balance

29. The Council is concerned about investigation of nearby ponds with reference to protected species. Addressing this, the appellant has submitted site investigation evidence with this appeal. While not forming part of the original application, this evidence relates directly to this Council's reason for refusing permission. Moreover, the Council and interested parties have had an opportunity to comment on this evidence in this appeal process. Also, while this may be new information, the original scheme considered at the application stage is unchanged. Given these circumstances, it would not be unfair to any interested party to consider this information in this decision.
30. The appellant's GCN Technical Report shows a negative result for the presence of Great Crested Newts in nearby ponds. The Council states it is content that this particular reason for refusal is resolved subject to conditions. I agree with this, in light of the findings set out in this new evidence. There is no conflict with Policy TP8 of the Birmingham Development Plan in this regard.

31. Objections have also been raised regarding fire safety. However, as outlined in the appellant's evidence, there would be sufficient room in the site access for fire appliances, with each residential unit being less than the 45m distance from such a vehicle in the event of a fire. No compelling evidence has been presented that this would not be the case. Also, other matters relating to sprinklers and hydrants may already be addressed by regulations outside of the planning system. If this was found not to be so, these matters could be addressed by condition. The proposal could accord with development plan policies and guidance in respect of this matter.
32. It is asserted that the Council has identified different reasons for refusing successive proposals at the site. However, proposals in the 1990s and early 2000s on the appeal site, were considered against planning policy that was distinctly different from now. As already covered, I find no significant evidence that the Council disregarded the conclusions reached in the 2023 appeal decision. Moreover, while new issues may be raised this time in respect of parking and protected species, all the Council's reasons for refusal have been substantiated with relevant planning policies.
33. The units would meet National Space Standards. Satisfactory living conditions for future occupants is a reasonable expectation, and as such this matter attracts limited weight.
34. The Council is unable to demonstrate a five year housing land supply(HLS) which currently is stated as 4.38 years. The appellant asserts that the Council delivered only 79% of the housing requirement when measured against the most recently published Housing Delivery Test, and as such the 20% buffer, required in the Framework applies. On their calculation, the HLS therefore stands at 3.65 years. In any event, even keeping with the Council's latest Position Statement on this matter, a shortfall of just over half a year equates to more than 4000 dwellings. Moreover, for the next few years, in excess of 7000 new units per annum would need to be delivered. A substantial number of new homes are required.
35. Given the HLS shortfall, the provisions in paragraph 11 of the Framework are relevant in this case. Addressing this, as already outlined, there is already permission on the site for four new residential units. This proposal would provide an additional four above this. Even without that permission, eight units would make a modest contribution to the supply and mix of homes in this area. That said, as outlined, the Council has a considerable HLS shortfall. This proposal would make a moderate contribution to addressing this shortfall and to the Government's objective to significantly boost the supply of new homes. In the circumstances described, I attach considerable weight to the benefit assisting with the supply and mix of new homes in this area.
36. The principle of this use at this location is not in dispute, and the site has good access to a range of services and public transport options. These matters also weigh considerably in favour of the proposal. Future occupants would likely support local services. There would also be economic benefits through the construction phase. Given the scale of the development these social and economic benefits attract moderate weight.
37. The application predates the mandatory requirement for biodiversity net gain in developments. That said, a Biodiversity Net Gain Assessment was submitted in support of this proposal which indicates the potential for a net gain of around 30% on site. It is asserted that the development would also incorporate energy efficiencies. These are moderate benefits that could be secured by condition.
38. The Framework recognises the importance of small to medium sized sites, such as this, in delivering homes, as well as the benefit of the potential to build the units quickly. It also

provides support for windfall sites, and it is acknowledged that such sites make an important contribution to the annual supply of housing.

39. Using suitable brownfield sites in settlements for homes should be given substantial weight, but this support is qualified where substantial harm would be caused. Moreover, the Framework clarifies that decisions should promote an effective use of land while safeguarding the environment and ensure healthy living conditions.
40. Related to this and relevant in this case, the Framework also requires well designed places and identifies good design as a key aspect of sustainable development. The proposal fails to be a good design in respect of protecting local character and ensuring the expected high standard of amenity for existing users. The scheme would not deliver sustainable development in these terms, and the development at this site would not be suitable in this regard. These factors significantly counter the substantial weight that should be given to the use of brownfield sites. Moreover, I am not convinced that this harmful development is the only means for securing the stated environmental, social and economic benefits outlined above, and this also counters against this scheme.
41. For these reasons, I find that the adverse impacts of this proposal would significantly and demonstrably outweigh the benefits, when assessed against policies of the Framework taken as a whole. The presumption in favour of sustainable development therefore does not apply.

Conclusion

42. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR