



Appeal Decision

Site visit made on 4 April, 2025

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 May 2025.

Appeal Ref: APP/P4605/W/24/3356118

109 Moor Hall Drive, Sutton Coldfield, Birmingham B75 6LS

- 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 Dr Ajay Tripathi against the decision of Birmingham City Council.
 - The application Ref is: 2024/02519/PA.
 - The application is outline planning application for the erection of 1no. dwelling house with all matters reserved.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) The effect of the proposal upon the character and appearance of the area, ii) whether the proposal would cause the potential for loss or harm to trees on site, iii) whether the proposal includes sufficient information with regards the effect upon ecology upon the site and iv) whether there is sufficient information with regards demonstrating an exemption from Biodiversity Net Gain (BNG) requirements.

Procedural Matter

3. The description of development used in the heading above differs from that used on the original application form and instead is that used by the Council on their Decision Notice that I consider better reflects the nature of the development proposed.
4. The application is for outline planning permission with all matters reserved. Despite this plans have been provided which demonstrate the general feasibility and likely outcome of development upon this site. As such I have taken this information into account as indicative and have determined the appeal accordingly.
5. Since the determination of this application a revised National Planning Policy Framework (The Framework) was published on 12 December 2024 (updated 7 February 2025) whose main focus was not directly relevant to this appeal. Nevertheless, I have determined this appeal in accordance with the revised provisions within the Framework.

Reasons

6. The appeal site constitutes the rear garden of a substantial detached house within a private residential suburb. There is no information before me as to precisely when the houses were constructed but the overall character is one of large footprint residential houses that stand within their own generous and mature gardens. The road of Moor Hall Drive is a private no through road and is suburban in character with open plan gardens and a meandering cul de sac type spine road serving the properties here. There is a pedestrian gate giving access to the lower end of the estate and a busy road junction with Tamworth Road beyond.
7. The site of the appeal is currently a mature garden associated with number 109 with several trees located to the edges of the site and an area of lawn to the centre. The site begins from Moor Hall Drive where the existing house is and extends towards a fenced and landscaped boundary that abuts Weeford Road.
8. The proposal before me seeks outline planning permission for the subdivision of around 0.7 hectares of this rear garden so as to construct a new dwellinghouse. The indicative plans show that the proposed dwelling would be two storeys in height and of a fairly standard design and would likely be constructed in brick or render. The indicative height of the dwelling would be around 5.1m to eaves and 7.6m to the pitched roof ridge. The property would be a single bay wide with central stair serving three bedrooms to the first floor. Access into the proposed plot would be taken entirely from Weeford Road with a proposed double access for ingress and egress. This would involve the cutting down of boundary hedges and the cutting back of trees along this boundary.
9. The Statement of Case goes into further detail suggesting that the proposed house would have Juliet type balconies and full height windows. This information, together with the indicative plans as described above, illustrates what I consider would be a likely output from developing on this site due to the size of the plot and the surrounding constraints.
10. There has been very little analysis of the area in the design statement to help in determining the overall character of this site that would be important in developing such a scheme. However, I saw on my site visit that the vast majority of houses are of a grand scale and set within large grounds. It would appear that some houses nearby may have historically constructed properties to their rear gardens in a similar manner to that within the appeal, although I have no other information before me to assist or to elaborate upon the precise reasons or means through which this development occurred. As such I can only give these other examples limited weight. I did note however that these other buildings were all of a greater size and complimentary to that of the wider area in terms of their general character.
11. The scheme before me proposes a building of a much smaller footprint size and scale than that of others nearby, presumably due to the constraints upon the site with regards trees and plot size. However, through taking this potential course of action any proposed building would be at odds with the dominant character of the area, which is dictated by larger scale buildings within larger, mature grounds.

12. As such the proposal, were it to follow the outline indicative plans as seems likely, would introduce an incongruous development within this context that would cause harm to the overriding character of the area. Furthermore, through taking a double access from Weeford Road, the proposed scheme would dramatically alter the green character of this part of the highway and would continue the harmful ribbon development along the roadside here.
13. Although there are other accesses from Weeford Road this site marks the end of the road as an A-road of rural character. This is made more apparent as the road curves around this site largely obscuring the other houses beyond on its approach to the junction beyond. As such the further erosion of landscape and a natural boundary would also cause harm. When added to this the requirement for extra tree pruning and visibility splays the current positive character of this plot would be irreparably altered.
14. In considering whether it is possible for this proposal to meet the Policy requirements of Policies PG3 and TP27 of the Birmingham Development Plan 2017 and the Design Principles DP1 and DP2 of the Birmingham Design Guide SPD I consider that, despite the indicative nature of the development, the proposal would not be able to effectively integrate in terms of character and design without causing other issues such as affecting protected trees upon the site. As such I am unconvinced that the scheme before me could balance these requirements so as to protect the character of the area as a whole whilst responding positively to its particular context.
15. As mentioned above the site contains several trees and landscape features that contribute in a very positive manner to the character and appearance of the area, some of which are protected under a Tree Preservation Order¹. Most of the identified trees on site are categorised as Category B trees with the remaining being Category C specimens². The associated Arboricultural report clearly states that the report that was produced was not intended to assess the impacts of potential development. As such there is no specific Arboricultural assessment of the potential impacts of development upon these trees.
16. From the provided plan³ within the Arbtech report however it would appear that the root protection areas of two Category B trees, would have the potential to be affected through development of this kind. As such I do not have the information before me to fully assess the potential effect that this proposal may have upon the trees. Similarly, I have no such information to allow me to be satisfied that such a scheme would not harm the biodiversity or ecological value of the site. However, considering the likely impact upon trees, their root protection areas and the subsequent proximity of trees to any potential dwelling house, I conclude that, based upon the information submitted, that this scheme would be unable to meet the requirements of Policies PG3, TP7 and TP27 of the Birmingham Development Plan 2017.
17. Coming to the final reason for refusal, it is correct to state that the application is not clear on whether this is a self build dwelling or whether the site would be sold to another party or another developer as both possibilities appear to be alluded to. As such I must concur with the council is concluding that this

¹ TPO 1047

² Arboricultural Survey by Arbtech 23 November 2021.

³ Plan Arbtech TCP01

scheme is not yet able to meet the requirements of Policy TP8 of the Birmingham Development Plan 2017 simply due to the absence of this information.

18. Ultimately this proposal lacks key information that would enable me to be satisfied that any such outline permission, were it to be ultimately secured and developed, would not cause harm to the character and appearance of the area, or to trees or to the biodiversity value of the site. As such I simply must conclude that this scheme is unable to meet the Policy requirements as outlined within the Development Plan, nor can I be satisfied that this scheme would meet the requirements of the Framework itself. As such this appeal must fail.

Conclusion

19. As such, for the reasons given above, and taking into account of all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR