



Appeal Decision

Site visit made on 7 May 2025

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2025.

Appeal Ref: APP/P4605/W/25/3360746

2 Hullbrook Road, Birmingham B13 0JU

- 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 and Mrs M S Sandhu against the decision of Birmingham City Council.
 - The application Ref is 2024/05298/PA.
 - The development proposed is self-build erection of 1 no. dwellinghouse (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development on the appeal form in the banner heading above, as the appellants have indicated this to be a more accurate description. This is also the description used on the Council's decision notice.
3. The appellants' statement makes several references to revising the design of the appeal proposal to address the Council's reasons for refusal. However, there are no amended plans before me to consider. In any event, the appeal process should not be used to evolve a scheme. Any amendments that are considered to overcome the Council's reasons for refusal should be made as part of a fresh planning application. For the avoidance of doubt, I have determined the appeal on the basis of the plans which were before the Council when it made its decision.

Main Issues

4. The main issues in this appeal are as follows:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposed dwelling would provide adequate living conditions for future occupants, with specific regard to the amount of internal space;
 - whether the proposed dwelling would provide adequate living conditions for future occupants, with specific regard to outlook, sunlight and daylight;
 - the effect of the proposal on highway safety, with specific regard to whether adequate visibility splays could be achieved; and
 - whether the proposal would make adequate parking provision.

Reasons

Character and appearance

5. No. 2 Hullbrook Road is one half of a semi-detached pair of houses located at the entrance to Hullbrook Road, close to its junction with Trittiford Road. Hullbrook Road and the immediate surrounding area comprises 2-storey semi-detached and terraced houses, which are set back from the highway on moderate to large plots. Houses located on the corner of road junctions, such as the appeal property, tend to have larger plots than houses in other positions.
6. The houses have a simple form and a consistent style with similar features, such as hipped roofs, projecting eaves, centrally located chimneys, ground floor bay windows and front porches. Albeit the exact design of the front porches and their relationship with the ground floor bay window differs. Some of the houses have also been extended to the side. These extensions are predominantly single storey. An exception to this is Nos. 16 and 18 Hullbrook Road, which have two-storey side extensions that finish close to one another. This, together with a mixture of external materials adds some variety to the street-scene.
7. The set back of the houses, their consistent scale and regular gaps between the semi-detached pairs and rows of terraces provides a sense of spaciousness. Although there is a mixture of front boundary treatments, hedging, open lawns and planting, together with mature street trees, adds a degree of verdancy. Overall, the area has a spacious and verdant character.
8. The proposal is for a detached dwelling, which would not reflect the semi-detached and terraced forms of the surrounding houses. The proposed dwelling would be located on garden space to the side and rear of No. 2 Hullbrook Road. The garden space currently provides a gap between No. 2 and No. 6 Hullbrook Road, and the loss of this gap would erode the spacious character of the area.
9. The proposed dwelling would also be positioned closer to the highway than the neighbouring houses, beyond the front elevation of No. 6 Hullbrook Road. I saw on my visit that it is uncommon for houses on corner plots to be positioned significantly closer to the highway than their neighbours or to project past the front elevation of their neighbours to any appreciable degree. It is even uncommon for extensions or outbuildings to project forward of the principal elevations of the houses. In this case, although the forward projection may be considered modest, the proposed dwelling would finish in close proximity to the highway, and together with its detached form, it would appear clearly at odds with the existing pattern of development. Therefore, despite the proposed dwelling being a similar scale and using similar materials to nearby houses, as well as incorporating a hipped roof, it would appear incongruous in the street scene. This would result in significant harm to the character and appearance of the area.
10. I appreciate that some of the regular gaps between the houses along Hullbrook Road have already been eroded by extensions, such as the gap between Nos 16 and 18 Hullbrook Road. Nonetheless, these extensions are set back a similar distance from the highway as the principal elevations of the host dwellings, meaning that a degree of spaciousness is maintained. This would not be the case for the appeal proposal. Furthermore, the appeal site is in a prominent location at the entrance of Hullbrook Road. The discordant appearance of the proposed dwelling would therefore be very evident in the street scene.

11. The appellants consider that the projection of the proposed dwelling beyond the front elevation of No. 6 Hullbrook Road could be mitigated by landscaping. The proposed dwelling would be set behind the existing boundary hedge, which is approximately 2.2 metres tall. However, even if additional landscaping was sought by condition to bolster the existing hedge, this would not fully address the harm that I have identified. In any event, landscaping should be used to integrate a development with its surroundings and not to screen a development that would otherwise be unacceptable.
12. Notwithstanding this, the placement of the proposed dwelling behind the existing hedge would not be out of keeping with other houses in the immediate area. While the elevation that would face Hullbrook Road would be mostly blank with only two small first floor windows, it would also include the principal door into the proposed dwelling. Therefore, while the pattern of fenestration would likely appear odd, adding to the incongruity of the proposed dwelling, the proposal would provide an active frontage not untypical of a residential property.
13. Accordingly, for the reasons above, the proposal would significantly harm the character and appearance of the area. It would conflict with policies PG3, TP27 and TP30 of the Birmingham Development Plan, Planning for sustainable growth (2017) (Local Plan) and Policy DM2 of the Development Management in Birmingham Development Plan Document (2021) (DPD). These policies seek to ensure all new development demonstrates a strong sense of place and high design quality by, among other things, responding to site conditions and the local area context.

Internal space

14. There is no dispute between the parties that the proposed dwelling would not fully meet the Technical housing standards - nationally described space standard (2015) (NDSS). Although it may be that the shortfall in the minimum gross internal floor area of the proposed dwelling as a whole, could be considered as reasonably minor, the floor area for proposed bedroom 3 would be significantly undersized for a single bedroom. The space standards have been put in place to ensure that adequate living space is provided and compliance with these standards is a requirement of Policy DM10 of the DPD. The proposal would therefore not provide adequate living conditions for future occupants.
15. Policy DM10 of the DPD does allow for exceptions where it can be robustly demonstrated with appropriate evidence that to deliver innovative high-quality design, deal with site specific issues or respond to local character, adhering to the standards is not possible due to physical constraints or financial viability issues. Nonetheless, there is no substantive evidence before me to demonstrate that these circumstances apply in this case.
16. The appellants contend that the shortfall could be addressed by reallocating storage space or a minor loft adjustment, which could be secured by condition. However, while it may be possible to reconfigure the layout, there is nothing before me to demonstrate this. As stated above, I have determined the appeal on the basis of the plans which were before the Council when it made its decision.
17. It is also the view of the appellants that the proposal would be compliant with Policy DM10 of the DPD and the NDSS, as they consider the National Planning Policy Framework (the Framework) to allow minor deviations where amenity is

preserved. This is not set out in the Framework. To the contrary, Paragraph 135 of the Framework seeks to ensure that developments create places with a high standard of amenity for existing and future users.

18. Accordingly, the proposal would conflict with policies PG3 and TP27 of the Local Plan, which seek to ensure all new development demonstrates high design quality. It would also conflict with policies DM2 and DM10 of the DPD, which seek to ensure all development would not result in unacceptable adverse impacts on the amenity of occupiers by, among other things, meeting the NDSS.

Outlook, sunlight and daylight

19. The proposed kitchen/dining area would be served by a window and patio doors. These openings would be approximately 1.6 metres from a proposed dwarf wall/close board fence, which would be 2.4 metres tall.
20. While the window and patio doors would face south, the proximity and height of the proposed boundary treatment would likely restrict the amount of sunlight and daylight received by these openings. There is nothing before me to demonstrate that the amount of light received by the kitchen/dining area would be enough to ensure adequate living conditions for future occupants. The outlook from the window and doors, and subsequently the kitchen/dining area, would also be very poor, comprising largely of a blank wall and fence.
21. I appreciate that the minimum 12.5 metre distance set out at City Note LW-3 of the Birmingham Design Guide (2022) (Design Guide) relates to a distance between an elevation with habitable room windows and an opposing 1 or 2 storey residential flank wall, which would not be the case for the proposal. In addition, the 45 Degree Code set out at City Note LW-4 of the Design Guide would not be the appropriate test where the openings are opposite a wall or fence.
22. Nevertheless, in the absence of any further evidence, given the proximity and height of the proposed boundary treatment, I am not satisfied that the kitchen/dining area would receive adequate light and be provided with an adequate outlook. Subsequently, based on the evidence before me, the proposal would not provide adequate living conditions for future occupants.
23. The appellants consider that using frosted glazing in the windows would resolve these concerns. Nonetheless, this would neither increase the amount of light received by the openings nor improve the outlook. Although it may be possible to address these issues by repositioning the windows, there is nothing before me to demonstrate this and I have determined the appeal on the basis of the plans which were before the Council when it made its decision.
24. The appellants again refer to the Framework only requiring reasonable amenity and not absolute compliance with non-statutory guidance. To the contrary, as set out above, the Framework requires a high standard of amenity for future users.
25. Accordingly, in the absence of evidence to the contrary, the proposal would conflict with policies PG3 and TP27 of the Local Plan, which seek to ensure all new development demonstrates high design quality. It would also conflict with policies DM2 and DM10 of the DPD, which seek to ensure all development would not result in unacceptable adverse impacts on the amenity of occupiers by, among other things, providing adequate outlook and daylight to dwellings.

Visibility splays

26. Hullbrook Road is a 30mph residential road and during my visit there were not many vehicle movements along it. However, I appreciate that my observations were taken at a point in time, and that the number of vehicle movements may increase at other times of the day.
27. The vehicle access for the proposed dwelling would be located on the inner curve of a bend in the road. This would affect the visibility of a driver exiting the appeal site in both directions. In addition, the existing roadside boundary hedge to the appeal site would further affect visibility in the direction of the junction of Hullbrook Road with Trittiford Road.
28. The Highways Authority has requested a condition be imposed on any permission requiring a visibility splay for the proposed vehicle access of 2.4 metres by 43 metres in both directions. The appellants do not dispute this and there is nothing to suggest that this requirement is unreasonable. Yet, there is nothing before me to demonstrate that these visibility splays could be achieved. In the absence of evidence to the contrary, from my observations on site, given the bend in the road and the height and density of the existing hedge, I am not satisfied that these visibility splays could be achieved, even if the hedge was reduced to 1 metre.
29. Without the provision of suitable visibility splays to serve the access, it is unlikely that a driver exiting the site would adequately see vehicles approaching until they had manoeuvred part of the vehicle onto the carriageway. This would inevitably give rise to risk of collision with other vehicles, as well as pedestrians and cyclists, resulting in an unacceptable adverse effect on highway safety. Albeit the modest amount of vehicle movements would moderate this risk to a degree.
30. I appreciate that there are multiple other access points along this section of Hullbrook Road. However, I am not aware of the specific circumstances of these access points, and the presence of these access points does not lead me to a different conclusion.
31. Accordingly in the absence of evidence to the contrary, the proposal would result in moderate harm to highway safety. It would conflict with Policy DM14 of the DPD, which seeks to ensure that any new development would not have an unacceptable adverse impact on highway safety.

Parking

32. On my visit I saw that there is an existing telegraph pole, as well as 2 roadside cabinets, located close to where the proposed vehicular access would be provided from Hullbrook Road. From my observations on site, it appeared that there would be sufficient space for a vehicle to access the appeal site at this point without moving the telegraph pole, albeit I appreciate that this has not been clearly demonstrated as part of the application or appeal. In any event, had I been allowing the appeal, the removal of the telegraph pole could be addressed as part of a Grampian condition.
33. The proposal would therefore accord with Policy DM15 of the DPD, which requires new development to meet its operational needs in terms of parking provision.

Other Matters

34. The proposal would provide a dwelling in an accessible location, which would make an efficient use of land and a modest yet meaningful contribution towards the City's housing supply. There would also be modest economic and social benefits arising from the proposal resulting from spending associated with the construction and occupation of the proposed dwelling.
35. The proposal is stated to be a self-build dwelling. Nonetheless, there is no mechanism before me, such as a planning obligation, to prevent the proposed dwelling from coming forward as a market dwelling. I can therefore only afford this limited weight in my decision.
36. It is the view of the appellants that the proposal aligns with the character of similar residential developments, which could occur under permitted development rights with prior approval from the local planning authority. However, although it is likely that the appeal site would benefit from some permitted development rights, there is no substantive evidence before me of which rights could be exercised to deliver a similar development to the appeal proposal. Neither is there any comparable scheme before me that would be deemed permitted development. This is therefore not determinative in my decision, and I afford it limited weight. I must determine the proposal that is before me, which is for a separate dwelling that requires planning permission.
37. While I note the concerns raised by the appellants regarding the application process. I am tasked with determining the appeal before me on its planning merits. These types of concerns are outside the remit of this appeal and do not alter my conclusion on the main issues.

Conclusion

38. Overall, I have found that the proposal, subject to conditions, would meet its operational needs in terms of parking provision. Nevertheless, this neither outweighs nor addresses the significant harm I have identified to the character and appearance of the area and, in the absence of evidence to the contrary, the significant harm arising from the proposal not providing adequate living conditions for future occupants, as well as the moderate harm to highway safety. The proposal would therefore conflict with the development plan read as a whole.
39. The modest benefits of the proposal would not outweigh the harm I have identified.
40. Accordingly, having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR