
Appeal Decision

Site visit made on 7 July 2025

by **L Regan MSc CMILT**

an Inspector appointed by the Secretary of State

Decision date: -5 September 2025

Appeal Ref: APP/P4605/W/25/3365206

323A Ladypool Road, BIRMINGHAM B12 8LB

- 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 Navid Arif against the decision of Birmingham City Council.
 - The application ref is 2024/04056/PA.
 - The development proposed is for the retention of 2no. shipping containers for use as cafe with preparation area for food and 1no. open terrace and 1no. covered terrace at first floor (resubmission of application 2024/00450/PA).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Birmingham City Council has submitted an appeal decision (ref: APP/P4605/W/24/3346718) which relates to a previous application (ref: 2024/00450/PA) seeking retention of what appears to be similar proposals to this current appeal with some minor modifications in respect of external materials.
3. The planning application to which this current appeal relates was refused on 15 November 2024. The appeal decision referred to above was issued after this date on 25 November 2024. The appellant had the opportunity to provide comments in respect of this recent appeal decision, and I therefore consider that no party is prejudiced by it being considered in this appeal.
4. That appeal was dismissed for reasons which included there would be significant adverse harm to the character and appearance of the area, including with respect to a non-designated heritage asset (No 86. Brighton Road).
5. It also concluded that there could be harm due to the lack of available proximate car parking which could result in illegal or obstructive parking to the detriment of pedestrian and highway safety. There was also found to be significant adverse harm to the living conditions associated with the rear amenity space at No 87-90 Brighton Road due to the overbearing nature of the upper floor terrace area.

Main Issues

6. Having regard to the Council's reasons for refusing this appeal scheme and the recent appeal decision, the main issues are the effect of the proposed development on:
- the character and appearance of the proposed development, including on the setting of a non-designated heritage asset,
 - highway safety associated with on-street car parking, and
 - the living conditions of No. 86 and 87-90 Brighton Road with respect to natural light and outlook.

Reasons

Character and appearance, including the setting of the non-designated heritage asset

7. I note that the appellant has not significantly addressed the findings within the previous appeal decision. The minor differences between the schemes have not resulted in any substantive minimisation of the harm that would arise to the character and appearance of the area or the setting of the non-designated heritage asset. I have no reason to disagree with those findings. Indeed, during my site visit I also found harm with respect to the character and appearance of the local area due to the jarring and temporary nature of the appeal proposals and the resultant impact on the setting of the adjacent non-designated heritage asset.
8. Therefore, the appeal proposals conflict with the requirements of Policies PG3 and TP12 of the Birmingham Development Plan 2017 (the DP) which seek to ensure high design quality and place making, including heritage asset considerations.

Highway safety

9. It is also the case due to the existing car parking demands, level of provision available proximate to the appeal site and restrictions in place, I agree that there could be highway safety impacts resultant from the appeal proposals. Indeed, I was unable to park in the immediate locality at the time of my site visit. This could result in inappropriate parking in the vicinity of the appeal site leading to harm to highway safety including that associated with pedestrians.
10. For these reasons the appeal proposals conflict with Policy PG3 of the DP and Policies DM14 and DM15 of the Birmingham Development Plan Document 2021 (the DPD) which seek to ensure developments to provide appropriate parking and ensure that there are no unacceptable impacts on highway safety amongst other matters.

Living conditions

11. I note that the previous appeal decision did not find any unacceptable harm to the living conditions of no. 86 Brighton Road with respect to light and outlook. I have no evidence before me to disagree with those findings.
12. However, the previous appeal decision did find that the appeal proposals introduced an overbearing built form of development which would adversely impact on the enjoyment of the rear amenity space associated with the residential

properties at Nos. 87-90 Brighton Road. I agree that this would result in significant adverse harm to living conditions, including to aspect and outlook.

13. As such the proposals fail to comply with Policy PG3 of the DP and Policy DM2 of the DPD which seek to ensure that development is of high design quality and does not result in unacceptable impacts such as to the amenity of neighbours with respect to matters including visual privacy and overlooking.

Other Matters

14. The Council has submitted suggested conditions in the event that the appeal was allowed. These are typically submitted by a Council for an appeal and are done so on a without prejudice basis. This does not indicate that the Council considers that the appeal scheme is acceptable subject to these conditions. The conditions suggested would not overcome the fundamental harms that would arise and therefore I do not consider that imposing these would be sufficient mitigation.

Conclusion

15. I therefore conclude that for the reasons given the proposal would not accord with the development plan when taken as a whole. There are no material considerations which indicate that the appeal should be determined other than in accordance with the development plan. The appeal should be dismissed.

L Regan

INSPECTOR