The Planning Inspectorate

Appeal Decision

Site visit made on 11 October 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 November 2016

Appeal Ref: APP/P1805/D/16/3156849
371 Old Birmingham Road, Lickey, Birmingham B45 8EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A4 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
- The appeal is made by Mr Kevin Tyler against the decision of Bromsgrove District Council.
- The application Ref 16/0479, dated 20 May 2016, was refused by notice dated 13 June 2016.
- The development proposed is a rear single storey flat roof extension.

Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a rear single storey flat roof extension at 371 Old Birmingham Road, Lickey, Birmingham B45 8EU in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A4 (2) of the GPDO.

Procedural Matters

2. The provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made in the same manner.

Reasons

3. The appeal property is a detached house set within a generous plot but the house is located within close proximity to the boundary with No 373. The appeal house is currently being renovated and a concrete slab for a 4 metre deep extension, across the whole of the rear of the dwelling, had been constructed at the time of my site visit. No 373 is a detached bungalow which is set at a slightly higher level to the appeal property due to the topography. There is a hedge and fence panels (approximately 2m high) on the boundary between No 373 and the appeal house.

4. The appeal proposal would comprise an 8 metre deep extension across the whole of the rear of the house. It would have a flat roof and be around 2.6 metres high[1]. No 373 lies to the north-east of the appeal property and has a single storey outrigger that extends from the main rear elevation of the bungalow. There are 3 windows in the side elevation of No 373 looking

[1] Taken from appellant's grounds of appeal

towards the appeal property. Two of the windows serve a kitchen/dining room and the third is to a bathroom. The bathroom window is obscure glazed and is not normally classed as a habitable room (living areas and bedrooms) for planning purposes. I consider it is reasonable to only assess amenity from the main living accommodation that includes the habitable rooms of No 373.

5. The combination of the siting of the appeal property and the boundary hedge/fence panels already serve to create a sense of enclosure and somewhat restrict the outlook from the kitchen/dining room windows of No 373. Moreover there is an additional window on the rear of the property that serves the kitchen. This window's outlook is restricted by the conservatory that extends across the rear of No 373.

6. The proposal would extend directly in front of the 3 side facing windows and it would be somewhat higher than the boundary fence. Consequently it would create a greater sense of enclosure than currently exists and it would result in a loss of outlook from the kitchen/dining room side facing windows. Due to the height of the proposal and its close proximity to the side facing windows there will be some reduction in the amount of daylight reaching those windows. However, I consider that this would not be to such a degree as to cause material harm to the living conditions currently enjoyed by the occupants of No 373 in this respect.

7. Furthermore, the orientation of the appeal property in relation to No 373 coupled with the position of the boundary fence mean that the appeal proposal would cause little, if any, additional overshadowing of No 373 nor would it have a material effect on the amount of sunlight currently provided to the side facing windows. No technical evidence has been submitted, but my assessment of the appeal site and its relationship to the proposed development lead me to conclude that it is likely that the proposed development would not significantly overshadow or lead to a material loss of daylight/sunlight to the side facing windows of No 373.

8. I am particularly mindful in this case that a similar height single storey extension to that proposed, except with a lesser projection of 4 metres, could be constructed as permitted development without being subject to the requirements of the neighbour consultation scheme. This constitutes the fallback position. Taking into account the existing floor slab I consider that it is highly likely that such an extension would be built if the appeal is dismissed.

9. The 4 metre depth extension would also extend in front of the side facing kitchen/dining room windows. Consequently, any effect on the amenity of the occupiers of No 373 in relation to its effect on outlook and a sense of enclosure as well as any loss of light would not be appreciably greater as a result of the appeal proposal than if the fallback position was implemented. This is a material consideration to which I attach significant weight.

10. Taking account of all of the above I am satisfied that the appeal proposal would not result in an appreciably greater impact on the amenity of adjoining premises than the fallback position such as to warrant the dismissal of this appeal.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed and approval granted. In granting approval the appellant should note that the GPDO requires at Paragraphs A4 (13), (14) and (15) that the development

shall be completed on or before 30th May 2019 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer; the address or location of the development and the date of completion.

D. Boffin

INSPECTOR