The Planning Inspectorate

Appeal Decision

Site visit made on 14 March 2017

by P G Horridge BSc(Hons) DipTP FRICS MRTPI

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

Decision date: 30th March 2017

Appeal Ref: APP/P4605/D/17/3167853
10 North Drive, Handsworth, Birmingham B20 3SZ

- 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 Javed Akbar against the decision of Birmingham City Council.
- The application Ref 2016/09430/PA was refused by notice dated 4 January 2017.
- The development proposed is a single storey side/rear extension.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the planning application was refused, the Birmingham Development Plan (BDP) has been adopted and has replaced parts of the Unitary Development Plan (UDP) 2005. Paragraphs 3.8 and 3.10 of the latter were referred to in the council's decision notice but are now superseded. Paragraphs 3.14C and 8.39 to 8.43, also referred to in the decision notice, appear to be extant.

Main issue

3. At issue is the effect of the proposal on the living conditions of residents of the neighbouring property at 8 North Drive in terms of overshadowing and loss of outlook.

Reasons

4. BDP Policy PG3, which supersedes certain of the UDP policies referred to in the reason for refusal, deals with place-making. Among other matters it requires development to be of a high design quality. Saved UDP paragraph 3.14C notes that development should have regard to guidelines set out in various supplementary documents. These include Supplementary Planning Guidance (SPG) 'Places for Living' (2001) and Supplementary Planning Document 'Extending Your Home' (2007). Saved UDP paragraphs 8.39 to 8.43 refer specifically to the 45 degree code for house extensions, which is explained in more detail in SPG 'The 45 degree code' (2006). To safeguard against an unacceptable loss of daylight and outlook, single-storey extensions should not infringe a line drawn at a 45 degree angle from the midpoint of the window of any habitable room of a neighbouring property.

5. The proposal is to replace an existing timber garage structure to the side and rear of the house with a single storey brick extension with a pitched tiled roof. Both would abut the side boundary with 8 North Road and project beyond the rear wall of the house to the same extent, but the new extension would be noticeably higher than the existing structure. The existing garage already infringes the 45 degree line drawn from the nearest window of 8 North Road, which lights a living room. The increased height arising from the appeal proposal would result in significantly greater overshadowing of, and loss of outlook from, this room. The extension would thus be contrary to both the council's SPG 'The 45 degree code' and relevant local planning policies designed to protect the living conditions of neighbouring residents. These considerations outweigh the personal circumstances advanced by the appellant, in terms of providing accommodation for a disabled person. The appeal therefore fails.

Peter Horridge

INSPECTOR