
Appeal Decision

Site visit made on 20 June 2017

by M Aqbal BA (Hons) DipTP MRTPI

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

Decision date: 12 July 2017

Appeal Ref: APP/P4605/D/17/3170596
25 Marshbrook Road Birmingham B24 0NJ

- 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 Mrs Joginder Kaur against the decision of Birmingham City Council.
 - The application Ref 2016/10334/PA, dated 12 December 2016 was refused by notice dated 1 February 2017.
 - The development proposed is single storey rear extension-Re Submission of Application No 2016/07292/PA.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has referred to an extant planning permission for a single storey rear extension, at the appeal site, Ref: 2016/07292/PA. This extension is designed to comply with the 45 degree code in respect of neighbouring dwellings. This extends out 2.7m adjacent to the boundary with 27 Marshbrook Road and 1.8m adjacent to the boundary with 23 Marshbrook Road.

Main Issue

3. The main issue is the effect of the proposed extension on the living conditions of the occupiers of 23 and 27 Marshbrook Road, in respect of outlook and daylight.

Reasons

Living conditions

4. 25 Marshbrook Road is a modern semi-detached property with a gable-end roof design. The proposed single storey extension would extend off the rear by approximately 3m in depth, and across the entire width of the rear elevation, incorporating a mono-pitch roof.
 5. Both adjoining properties No 23 and 27, have rear facing glazed patio doors, which serve living rooms. The boundary treatment along the side boundaries comprises close boarded fencing, which is approximately 1.8m in height. There is no dispute amongst the main parties that the proposed extension would
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infringe the 45 degree code in respect of the ground floor glazed patio doors, which serve the adjoining dwellings No 23 and 27.

6. No 23 is attached to the appeal property and the patio doors to this property are approximately 1m from the shared boundary. Consequently, due to the height, depth and close proximity of the proposed extension to the boundary, it would significantly affect the daylight to, and outlook from the patio doors of this dwelling.
7. No 27 is detached from the appeal property and therefore the gap between the proposed extension and the patio doors at this dwelling is approximately 2m. I accept that the proposed extension would infringe the 45 degree code. However, this would only be in respect of a small section of the extension, furthest away from the patio doors, where its height would not be significantly higher than the existing boundary fence. Therefore, I consider that due to the greater separation and intervening boundary fence, the proposed extension would not materially impact on the outlook or daylight to this property.
8. I conclude that the proposed extension would significantly impact on the living conditions of the occupiers of 23 Marshbrook Road, by way of loss of outlook and daylight and would therefore conflict with Policy PG3 of the Birmingham Development Plan 2017, saved Paragraphs 3.14C and 8.39-8.43 of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework, which, amongst other matters, seek to secure good design in the interests of safeguarding the living conditions of neighbours.

Other Matters

9. The appellant states that if permitted development rights had not been removed for the appeal site, the proposed extension would not have required planning permission. Removal of permitted development rights is a matter of fact and the merits of removing such rights are not before me. The appellant also questions the reasoning for the removal of permitted development rights. This is a matter for the Council to address.
10. I note that the proposed extension would be less costly to construct than the rear extension the appellant already has planning permission for. However, this in itself does not outweigh the harm I have identified.

Conclusion

11. For the reasons set out above, I dismiss this appeal.

M Aqbal

INSPECTOR