



Appeal Decision

Site visit made on 16 September 2019 by S Watson BA (Hons) MSc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 17 October 2019

Appeal Ref: APP/P4605/W/19/3231866

14 Langleys Road, Birmingham B29 6HP

- 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 Mr I Hussain against the decision of Birmingham City Council.
 - The application Ref 2019/01058/PA, dated 6 February 2019, was refused by notice dated 9 May 2019.
 - The development is proposed rear part single and part 2 storey extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of the proposed rear part single and part 2 storey extension at 14 Langleys Road, Birmingham B29 6HP in accordance with the terms of the application 2019/01058/PA dated 6 February 2019 subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos 01 Rev A & 2.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.
 - 4) The extension hereby permitted shall not be occupied until the windows on the north elevation of the extension have been fitted with obscured glazing, and no part of those windows that is less than 1.7m above the finished floor level of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The Council's decision notice makes it clear that its concern relates to the ground floor rear extension proposed. Accordingly, the main issue in this case

is the effect of the ground floor extension on the living conditions of the occupiers at No. 12 Langleys Road, with particular regard to light and outlook.

Reasons for the Recommendation

4. No 14 Langleys Road is a semi-detached property in a residential area. It is located to the south of No 12 and has a conservatory which adjoins the party boundary. The proposal is for a part single, part two storey extension providing space for a new kitchen on the ground floor and enlarged bedrooms on the first floor. As a result of the development there would also be some internal alterations. The existing outbuildings and conservatory on the site would be demolished.
5. The new extension would be constructed close to the party boundary with No 12. It would extend beyond the rear wall of this property and would be visible from the ground and first floor windows on the rear elevation of No 12. Although of a similar scale and rearward projection to the existing conservatory, the extensions' design would be more solid, with only some high-level glazing facing No 12, in contrast to the full glazed side elevation of the existing conservatory.
6. There is no dispute that the extension breaches the 45 degree code used by the Council when a measurement is taken from the ground floor door and windows of No 12. In this regard the single storey extension conflicts with the guidance within the Council's Extending your Home: Home Extensions Design Guide Supplementary Planning Document (SPD). However, although I do not have a copy of the full 45 Degree Code, it is clear that there is some flexibility to the application of this guidance where there is glazing.
7. The ground floor door and windows closest to the extension would be perpendicular to it and a space would be maintained between them. The north-west corner of the extension would also be partially glazed. I consider that whilst the light to these windows may be reduced as a result of the proposal, this would not be significant as the portion of the extension which breaks the 45° angle is only single storey and would be partially glazed. Accordingly, the proposal would be unlikely to make the room which the door and windows serve less pleasant to use.
8. The outlook from the ground floor rear windows of No 12 is likely to be primarily down its garden between No 12's outbuildings and the existing conservatory at the appeal site. The existing conservatory is obscurely glazed on the elevation facing No 12 and would already limit wider views from No 12. I therefore find that the extension would not substantially change the outlook from No 12, as the rear windows would still afford the existing open outlook into the rear garden.
9. The position of the extension relative to the northern ground floor door and windows and the two first floor windows would ensure that both natural light to them, and outlook from them would be maintained. Moreover, as the appeal proposal does not extend beyond the existing conservatory, the rear garden of No 12 would not be unacceptably affected by the proposal.
10. Although I acknowledge that there are concerns about the existing levels of noise and anti-social behaviour occurring on the appeal site, there is no

substantive evidence that demonstrates that the proposal would result in an increase in noise or anti-social behaviour from the occupiers of No 14.

11. Given my findings, I conclude that the proposal would not be harmful to the living conditions of the occupiers of No 12 Langleys Road. There would be no conflict with Policy PG3 of the Birmingham Plan 2031: Birmingham Development Plan, saved paragraphs 3.14C and 8.39-8.43 of the Birmingham Plan: Birmingham Unitary Development Plan 2005, or the aims of Extending Your Home: Home Extensions Design Guide SPD, and the Places for Living Supplementary Planning Guidance which, amongst other things, collectively seek to protect the living conditions of neighbouring occupiers. Nor would there be conflict with the National Planning Policy Framework (Framework), which at paragraph 127 requires developments to create places with a high standard of amenity for existing and future users.

Other Matters

12. I note the concerns raised by nearby occupiers regarding the effect of the development on the living conditions of the occupiers at No 16, with regard to privacy and light. However, the proposed extension does not have any side windows facing No 16, and although there are rear windows these would not cause any greater level of overlooking than already exists from the current rear windows. Moreover, some level of overlooking is to be expected within built-up residential areas. Given the scale and siting of the extension to the north of No 16 it is unlikely that it would have any impact on light to their garden to such a degree that it would adversely affect its use and enjoyment.
13. Concerns have been raised regarding the motivation of the appellant in extending the property, and the necessity of the extension. It is not within the remit of my assessment to consider these matters, and I therefore give them very little weight. The Planning Practice Guidance makes it clear that private interests such as the alleged impact of a development on the value of a neighbouring property is not a material consideration.
14. Representations have been made that the proposal may result in an increase in the number of people occupying the property. I am obliged to consider the proposal on the merits before me and there is no suggestion that the extension would allow a greater number of residents to live in the property. The Council has not raised this as an area of concern and I have no substantive evidence before me to take a contrary view in respect of this matter.
15. Although I acknowledge that there are concerns about how the proposal would comply with the Housing Act 2004, the Party Wall Act and licensing for landlords, these matters are dealt with by other bodies and therefore carry very little weight in the determination of the appeal before me.
16. Concern over potential damage to the neighbouring properties during demolition and development on the appeal site has also been raised, but there is no substantive evidence to demonstrate that the outbuildings would be at any unreasonable risk during development and this therefore limits the weight I can give this matter.
17. The Council has raised no objections to the proposed development based on parking provision or highway safety. Based on the submitted application

details and my observations whilst on the site visit, there is no substantive reason for me to take a contrary view.

Conditions

18. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the Framework and the Planning Practice Guidance. I have amended some of the suggested wording to reflect this advice.
19. A condition is necessary requiring that the development is carried out in accordance with the approved plans for certainty. In the interests of the character and appearance of the host dwelling and surrounding area, a condition is necessary to ensure that the external materials of the new extension match those of the existing house.
20. In order to protect the privacy of the occupiers of No 12 Langleys Road a condition would be necessary controlling the design of the windows.
21. The proposals would not result in the increase of bedrooms or occupiers at the appeal site, or the loss of a dedicated cycle storage area. I therefore find that it would be unnecessary to attach a condition requiring the provision of a cycle storage area.

Conclusion and Recommendation

22. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be allowed with the suggested conditions.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed with the conditions set out above.

RC Kirby

INSPECTOR