
Appeal Decision

Site visit made on 9 October 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/P4605/W/19/3234680

184 Maryland Avenue, Birmingham B34 6EA

- 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 Nazia Bi against the decision of Birmingham City Council.
 - The application Ref 2019/02111/PA dated 11 March 2019 was refused by notice dated 15 May 2019.
 - The development proposed is retention of rear dormer.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the appeal proposal on (i) the character and appearance of the area and (ii) the effect of the appeal on the living conditions of nearby dwellings with regard to loss of privacy.

Reasons

Character and Appearance

3. The appeal building is within a parade of shops and is a two storey mid terraced building with commercial use to the front of the building. The rear of the building is accessed through a door in the boundary wall that runs along the rear of the block. There is a modest amenity area to the other side of the boundary wall and access to the residential first floor is from an external staircase within the amenity space. The first floor elevation has two UPVC doors and a window next to the door that is at the top of the stairs.
4. Access to the rear of the block is along an alleyway that leads from Maryland Avenue to the end of the block which is No 190. There are 2 dormers at No 190 which are shown on the photographs submitted by the appellant. There is also a single dormer next to the appeal building at No 182 which has matching features to the existing building at No 182.
5. The appeal proposal is for the retention of an existing dormer to the rear of the appeal building. The dormer has a flat roof and largely extends across the rear elevation with two modest windows just under the flat roof.
6. The front elevation of the dormer resembles grey tiles which contrast with the brick finish of the appeal building itself. The size and design of the dormer together with the grey tiled appearance does emphasise the mass and scale

7. The style of the dormer is very different to the more modest and traditional dormers that are at No 190 and No 182 and they are not therefore comparable in size or design. The dormer is visually dominant and is not subservient to the original building. I did observe other dormers in the vicinity of the appeal site at my site visit, but their location is not comparable to the appeal site. Although the dormer is at the rear of the building, the appeal building's position close to the junction of the alleyway and Maryland Avenue means that the dormer is a particularly incongruous feature when driving or walking along Maryland Avenue towards the shops.
8. The scale, mass and design of the dormer means that it is an over dominant feature that is not in keeping with the character and appearance of the area. It would therefore be contrary to Policy PG3 of the Birmingham Development Plan 2017 (the Development Plan) which, amongst other things, states that new development should be high design quality. It would also be contrary to Paragraph 3.14C -D of the Birmingham Unitary Development Plan 2005(the UDP) which also states, amongst other things, that new development follows a high standard of design. It would also be contrary to the guidance contained in Extending Your Home which, amongst other things, states that dormer features should not dominate the roof. It would also be contrary to Paragraph 127 of the National Planning Policy Framework (the Framework) which, amongst other things, states that developments should add to the overall quality of the area.

Living Conditions

9. The Council's reason for refusal states that the proposal does not provide an adequate separation distance to existing residential units and would lead to a loss of privacy. The reason refers to more than one unit being affected. However, the information in this regard is limited to stating that the proposal does not provide an adequate separation distance to existing residential units and refers to a separation distance of 13.6 metres rather than 15 metres to neighbouring premises as contained in the Places for Living (Adopted Supplementary Planning Guidance 2001)(the SPD).
10. Beyond the alleyway to the rear of the appeal site, there is a dwelling that fronts onto Falmouth Road and Maryland Avenue. However, the size and position of the appeal dormer windows in relation to that dwelling would, in my view, limit the degree of overlooking and loss of privacy. Although distances are provided in the SPD, Appendix A states that the numerical standards provide a rough rule of thumb and context will be relevant.
11. The reference to inadequate separation between residential units has been misinterpreted by the appellant as relating to the internal layout of the appeal proposal. The appellant indicates that the intention is to reduce the existing two flats into a single flat and that the proposal complies with the latest space standards adopted by councils. However, the proposed use of the appeal proposal and the internal layout of the dwelling are not matters before me for this appeal. The appeal relates solely to the retention of the dormer.
12. Based upon the limited evidence before me, I do not find that the appeal proposal would result in a loss of privacy to existing residential units. Paragraph 3.14C of the UDP states that development should have regard to the development guidelines set out in the SPD. However, I do not find the proposal to breach the SPD guidelines with regard to loss of privacy taking

into account the context of the site and the evidence before me. I find Policies PG3 and TP27 of the Development Plan to be less relevant as they relate to high quality design and sustainable neighbourhoods rather than loss of privacy. I do not find that the appeal proposal would be in breach of the part of Paragraph 127 of the Framework which refers to providing a high standard of amenity for existing users with specific regard to loss of privacy.

Other Matters

13. The appellant has produced photographs which relate to five properties in Alum Rock Road in Saltley that have dormers. The appellant considers that the dormers are in similar proportions to the appeal dormer. However, each application has to be considered on its own merits and I do not find the examples given to be comparable in terms of size or design or location to the appeal proposal. Although the appellant refers to a need to apply a common policy to all proposals, within that policy, matters such as location, appearance and design have to be assessed with regard to each application.

Conclusion

14. Whilst, I have not found that the appeal dormer would cause harm to the living conditions to existing residential units due to loss of privacy, I have found that the appeal dormer does harm the character and appearance of the area. I have not found that there are any material considerations before me to outweigh that harm.
15. For the reasons given, the appeal is therefore dismissed.

E. Griffin

INSPECTOR