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## Appeal Decision

Site visit made on 17 December 2019

**by A Denby BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 January 2020**

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**Appeal Ref: APP/P4605/D/19/3238902**

**224 Moor End Lane, Birmingham, B24 9DR**

- 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 Miss P Brennan against the decision of Birmingham City Council.
  - The application Ref:2019/05843/PA, dated 1 July 2019, was refused by notice dated 27 September 2019.
  - The development proposed is erection of first floor rear extension and rear dormer.
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### Decision

1. The appeal is allowed, and planning permission is granted for a first-floor rear extension and rear dormer at 224 Moor End Lane, Birmingham, B24 9DR, in accordance with the terms of the application Ref: 2019/05843/PA, dated 1 July 2019, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Block Plan; E-01A; E-02A; P-02B; P-03C.
  - 3) The external facing and roofing materials to be used in the construction of the extensions and alterations hereby permitted shall match those used in the existing building.
  - 4) The extension hereby permitted shall not be occupied until the rear dormer window has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor 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 window is installed and once installed the obscured glazing shall be retained thereafter.

### Procedural Matters

2. The appeal scheme was amended during the application process. Plans for previous schemes at the appeal site have also been submitted by the Council. On the site visit I saw that works appear to be in process at the appeal site and at the adjacent site. For the avoidance of doubt the Council made its decision on drawings including drawings refs: P-02B and P-03C and I have determined the appeal on the same basis.

3. I have taken the description of the proposed development from the Council's decision notice. It more accurately reflects the proposed scheme and is the one used by the appellant on the appeal form.
4. The site visit was altered from an access required site visit to an unaccompanied site visit as the appellant was not present when I arrived at the appeal site during the pre-arranged period. The appellant however did agree that I could access the site unaccompanied.

### **Main Issue**

5. The main issue is the effect of the development on the living conditions of occupiers of existing properties on Arthur Road, with particular regard to overlooking and privacy.

### **Reasons**

6. The site consists of a semi-detached property which is set back from Moor End Lane. The property has a single storey extension to the rear and private garden area. The garden area is at a slightly higher ground level than the dwelling and enclosed to the rear by a brick wall.
7. The rear site boundary adjoins the rear gardens of existing properties that front on to Arthur Road. I saw on my site visit that the existing properties on Arthur Road have substantial rear gardens with mature trees located in close proximity to the appeal site boundary.
8. The proposal includes a two-storey extension with dormer window to the rear. I note that in order to protect neighbours' enjoyment of their home the Council's Supplementary Planning Document: Extending Your Home-Home Extensions Design Guide, 2007 (SPD) and Supplementary Planning Guidance: Places for Living, 2001 (SPG) set out minimum separation distances to be achieved between development and existing private space.
9. The dormer window proposed would not achieve the minimum separation distance. However, both the SPD and SPG are clear that minimum separation distances relate to main windows. In addition, they also state that the main focus should always be on achieving the objectives behind the numerical standards and that careful design, rather than a simple blanket application of them, can often address concerns such as privacy.
10. There would be one window within the dormer and whilst it may offer some increased opportunity for overlooking it would serve an en-suite bathroom, which is a non-habitable room. In addition, the submitted plans indicate it would be top hung and obscure glazed. This layout and design would ensure that any overlooking to neighbouring gardens would be limited.
11. I therefore do not consider the strict application of the separation guidance in the SPG or SPD is necessary in this instance to protect living conditions. Considering the above, the separation to the properties on Arthur Road, their substantial rear gardens and existing mature landscaping to the site boundary, the proposals would not result in significant loss of privacy due to overlooking.
12. The proposals therefore accord with the overall aims of Policy PG3 of the Birmingham Development Plan, 2017 (BDP) which seeks to ensure private external spaces are attractive and functional; and saved paragraph 3.14C of

the Birmingham Unitary Development Plan, 2005 which requires development to have regard to the guidelines set out in the SPG and SPD. For the same reasons the proposals would also meet the high-quality design requirements of Section 12 of the National Planning Policy Framework.

13. The Council's decision refers to Policy TP27 of the BDP but this appears to relate more to new residential development and therefore I also do not find any conflict with that Policy.

### **Other Matters**

14. I have considered the concerns raised by neighbours in relation to the potential use of the building as a House in Multiple Occupation, impact on street scene, parking and overlooking. The proposal before me does not seek to change the use of the property and previously proposed front extensions have now been omitted from the scheme. I also saw on my site visit that on-site parking is available. The proposed extensions are to the rear of the site and would have limited impact on the character and appearance of the site or surrounding area.
15. The proposal would result in windows to habitable rooms at first floor level being closer to the rear boundary. I note that the minimum separation distances in respect of these windows would be met and the neighbouring properties already experience direct overlooking from the existing first floor windows of the appeal property. A roof light is also proposed though this would be high level and positioned at an angle. In this context the proposal would not result in significantly increased harm. I note the Council have also raised no concerns in relation to the above matters. These other matters, therefore, do not lead me to a different conclusion.

### **Conditions**

16. In addition to the standard condition, which limits the lifespan of the planning permission, I have specified the approved plans for the avoidance of doubt and to provide certainty. A condition relating to matching materials is necessary to safeguard the character and appearance of the area. A condition relating to obscure glazing is also necessary to protect adjacent properties from any undue overlooking.

### **Conclusion**

17. For the reasons given above I conclude that the appeal should be allowed.

*A Denby*

INSPECTOR