



Appeal Decision

Site visit made on 25 August 2020 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: 5 October 2020

Appeal Ref: APP/P4605/D/20/3253460

31 First Avenue, Selly Oak, Birmingham B29 7NS

- 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 Chow-Hutchings against the decision of Birmingham City Council.
 - The application Ref 2020/02484/PA, dated 26 March 2020, was refused by notice dated 22 May 2020.
 - The development proposed is the demolition of existing extension. Single storey rear and side extension. Loft conversion with rear dormer.
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Decision

1. The appeal is dismissed.

Appeal Procedure

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

Main Issues

3. The main issues in this case are the effect of the proposal on:
 - The character and appearance of the dwelling and surrounding area, including the Selly Park Avenues Conservation Area (SPACA); and,
 - The living conditions of the neighbouring occupiers at No 29 First Avenue, with particular regard to outlook and light.

Reasons for the Recommendation

Character and appearance

4. The appeal site is on the north side of First Avenue and contains a two-storey terraced house within a long and relatively narrow plot. The dwelling itself has a two-storey rear outrigger which results in the building appearing as a reversed L-shape. Although characterised by its terraced dwellings, First Avenue is formed of a number of distinct, but similarly styled, groups of properties. From my observations on site, it appeared that the fronts and back of these properties form handed pairs within their groupings.
5. The appeal site is also within the SPACA, which stretches off towards the west. The area immediately surrounding the appeal site is characterised by the rows

of narrow terraced dwellings with detailed front elevations, set within long plots either side of tree lined streets. The integrity of the buildings seems to have been largely retained, although during my visit I noted a variety of doors, fenestration and materials used on front elevations.

6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national planning policy on heritage assets is set out in the National Planning Policy Framework (the Framework). At paragraph 192, it sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
7. The ground floor rear extension is of a very modern design which would appear distinct from the architectural style and materials of the host building. Although the design and materials would not reflect the host dwelling, I find that they would retain the legibility of the original form of the building. However, the height and bulky nature of the extension would nevertheless appear disproportionate at the rear of the building. Moreover, the rear dormer window would be a significant addition to the rear of the roof which would harm the uniform and regular pattern of the roofs in the terrace. The proposed timber cladding would further increase the prominence of the dormer against the roof by contrasting with the existing roofing materials. Although the extension and dormer are at the rear of the property and would not be visible from public view points, such as the street, they would still be visible features from nearby properties and gardens, which would likely reduce the appreciation of the environment within which nearby occupiers reside.
8. Although the proposed rooflights would be at the front of the property, I find their limited size would respect the proportions and scale of the front roof slope. As such they would not be unduly prominent on the roof and would not be an intrusive or jarring feature within views of the property or wider street scene.
9. Although my attention was directed to examples of similar extensions, dormers and roof lights within the surrounding area, I found that these were not so common as to have resulted in a change to the character of the area sufficient to justify the proposal before me. Moreover, all proposals must be judged on their own merit.
10. Given my findings above that the proposed extension and dormer would harm the character and appearance of the host dwelling and surroundings, I find it therefore follows that the proposal would not preserve or enhance the character or appearance of the SPACA.
11. I am mindful of the scale of the development in relation to the designated heritage assets and find that the harm caused would be less than substantial. However, the Framework is clear that great weight should be given to an asset's conservation. In this case the harm that I have identified needs to be weighed against the public benefit of the proposal.
12. The appellant's case has put forward a number of possible benefits which would arise as a result of the proposed development. I have no doubt that the enlarged living accommodation and increased daylight to the property would be

beneficial to the appellant, however such matters do not amount to a public benefit. No specific details have been submitted to support the assertion that the proposal would enable renovations to the property, which is likely to be a private benefit. In any event it is unlikely that such work is reliant on the scheme before me.

13. Accordingly, I find that there is no public benefit cited which outweighs the harm to the designated heritage asset as identified above. As such the proposal would harm the character and appearance of the host dwelling, surrounding area and the significance of the SPACA as a designated heritage asset, contrary to Policy PG3 of the Birmingham Plan 2031: Birmingham Development Plan (BDP) and Policy 3.14C-D of The Birmingham Plan: Birmingham Unitary Development Plan (BUDP) which seeks development to reinforce a positive sense of place and respond to the local area context. It would also conflict with the requirement for development to sustain or enhance the significance of heritage assets, as set out in Paragraph 192(a) of the Framework. The proposal would also not follow the guidance contained within the Extending your Home supplementary planning document (EYH).

Living conditions

14. The dwelling at No 29 is handed with the host property, meaning the passageways alongside the existing two-storey projections are next to each other. From my site visit it was clear that the two main windows facing on to, and one window facing down, the passageway were essentially the same at both Nos 29 and 31. Although on the north side of the building both areas and their associated windows were afforded a good level of ambient light at the time of my visit. The shared boundary fence did not result in any significant impact on the light reaching the windows at No 29.
15. Although the extension's rearward projection would be similar to the existing situation, its location on the party boundary with No 29 would result in a tall, imposing structure. This would have a significant enclosing effect upon the rear window of, and the side facing windows on the outrigger to, No 29. As a consequence of this relationship, light reaching these windows would be likely to be reduced and the rooms that these windows serve would be likely to be gloomy and less pleasant to use.
16. Moreover, the proposed extension would be a dominant feature in the outlook from the windows that face towards it, and whilst acknowledging that the outlook from the windows is dominated by the existing outrigger, the position and scale of the new extension would make this existing situation worse.
17. I acknowledge that the appellant has incorporated high level windows and roof lights in an attempt to allow light to reach the neighbouring property, however in this case I find that these design features would not mitigate the identified harm.
18. In light of my findings, I conclude that the proposed rear extension would be harmful to the living conditions of the occupiers of No 29 and would as such not comply with Policies 3.14C and 8.39-8.43 of the BUDP which collectively, and amongst other things, require development to have regard for the supplementary planning advice and to the 45° Code. It would also conflict with the high standard amenity requirements of Paragraph 127(f) of the Framework, and the guidance contained within the Places for Living supplementary planning

document, and the EYH. Although the Council referred to Policy PG3 of the BDP I did not find it to be relevant to this issue.

Other Matters

19. Although the appellant has referred to permitted development rights as a possible fall-back position in the event the appeal is dismissed, they have not provided any evidence to support this. It is not within the remit of this appeal to assess whether a proposal is likely to be possible under permitted development. Moreover, I understand from the information before me that there is an Article 4 Direction which restricts some permitted development in the locality. I therefore find that there is no more than a theoretical possibility of the proposal before me being carried out under permitted development.

Recommendation

20. For the reasons given above I recommend that the appeal should be dismissed.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be dismissed.

RC Kirby

INSPECTOR