



Appeal Decision

Site visit made on 13 October 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/P4605/W/20/3251927

40 Oak Tree Lane, Selly Oak, Birmingham B29 6HX

- 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 Sandeep Krishan (Flare Homes Ltd) against the decision of Birmingham City Council.
 - The application Ref 2019/10038/PA, dated 4 December 2019, was refused by an undated notice.
 - The development proposed is described as single storey rear extension, rear flat roof dormer window, pitched roof dormer window to front elevation, new external insulated render and internal alterations from 7 Bed Sui Generis house in multiple occupation (HMO) to 10 Bed Sui Generis HMO.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description in the header above is taken from the application form. However, the submissions indicate the proposal is for a 9 bedroom HMO and I have assessed the development on this basis.

Main Issues

3. Since the appeal was lodged, the Council has withdrawn its first refusal reason relating to the concentration of HMO's. As such, the main issues are (i) whether acceptable living conditions would be provided for occupiers in terms of the quality of the internal space in bedrooms 2 and 3, (ii) the effect on the living conditions of occupiers of 38 Oak Tree Lane (No 38) in respect of outlook and light, and (iii) the effect on the character and appearance of the area.

Reasons

Living conditions of occupiers of bedrooms 2 and 3

4. As well as providing sleeping space, bedrooms 2 and 3 would serve as their occupiers' only private living areas as the kitchen and dining room would be used by all of the HMO residents. By virtue of its close proximity to the flank elevation of No 38, the window to serve bedroom 2 would be overshadowed most of the time and would provide a highly restricted outlook. Also, the boundary fence and 2 storey high projection to the rear of No 38 would obstruct views from bedroom 3's window and would significantly limit access to natural light.

5. The windows to bedrooms 2 and 3 would be closer to the neighbouring property and so would provide less of an outlook and light to rooms than the existing windows in the side elevation of No 38. Therefore, the existing situation does not set a precedent that is bound to be followed in the determination of this appeal. The proposed dormer would improve views from the loft room but this benefit would not address or override the identified inadequacies of the other bedrooms.
6. For these reasons, I conclude acceptable living conditions would not be provided for occupiers in terms of the quality of internal space in bedrooms 2 and 3. Consequently, the proposal would be contrary to policy PG3 of the Birmingham Development Plan 2017 (DP) and the National Planning Policy Framework (the Framework). These aim, amongst other things, to ensure development demonstrates high design quality with the Framework also seeking to create places with a high standard of amenity for occupiers of property. Saved paragraphs 3.14C and 8.39 to 8.43 of the Birmingham Unitary Development Plan 2005 (UDP) are referred to in the Council's refusal reason but contain no provisions relevant to this main issue.

Living conditions of occupiers of No 38

7. While it would be single storey, the proposed extension would be markedly taller than the boundary fence and seen over it from No 38. Similar to the appeal property as it stands, the rear extension would contravene the 45° code line in respect of No 38's patio doors. However, it would be closer than the existing building to the boundary and so would lead to a loss of outlook from the patio doors and reduction in natural light to the room they serve. Furthermore, by reason of its height and closer positioning, the extension would be more imposing than the existing appeal property in views from the ground floor side windows to the rear of No 38.
8. For these reasons, I conclude the proposal would harm the living conditions of occupiers of No 38 in respect of outlook and light. Therefore, in this regard, it would be contrary to DP policy PG3, UDP paragraphs 3.14C and 8.39 to 8.43 as well as the Council's Places for Living Supplementary Planning Guidance 2001 (Places for Living SPG) and Extending Your Home Supplementary Planning Document 2007. These all aim, amongst other things, to ensure development responds to local context and avoids harm to adjoining properties.

Character and appearance

9. The development would be apparent from adjoining properties and so it would affect the character of the area despite being hidden from public vantage points. By virtue of its width, depth and flat roof, the proposal would result in an unusually large and squat rear element with a strong horizontal emphasis. As such it would be out of keeping with the traditional style of the appeal property and other nearby rear additions. Limited evidence has been submitted on works that could be carried out under permitted development rights and so this factor does not affect my views on the rear extension.
10. The external render would be starkly at odds with the attached brick built house and would hide decorative features that adds interest to the frontage of the dwelling. However, concerns in this regard could be addressed through the imposition of the suggested condition that would omit the external render from

the scheme. Such a condition however would not address the concerns in respect of the proposed development to the rear of the property.

11. For these reasons, I conclude the proposal would harm the character and appearance of the area. Therefore, in this regard, it would be contrary to DP policy PG3, UDP paragraphs 3.14C and D, the Places for Living SPG and the Council's Places for All Supplementary Planning Guidance 2001. These all aim, amongst other things, to ensure development demonstrates high quality design that reinforces local distinctiveness.

Other Matters

12. The proposal would allow the renovation of the property, would address internal layout problems and would enhance the building's energy efficiency. However, such improvements could be achieved through alternatives to the appeal development and so attract limited weight in my assessment. The acceptability of the proposal in terms of parking, highway safety and crime risk is a neutral factor. Even when taken together, these considerations do not justify making a decision contrary to development plan policies.

Conclusion

13. For the above reasons, the appeal does not succeed.

Jonathan Edwards

INSPECTOR