
Appeal Decision

Site visit made on 25 September 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2020

Appeal Ref: APP/P4605/D/20/3255178

22 Howard Road, Kings Heath, Birmingham B14 7PA

- 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 A Javaid against the decision of Birmingham City Council.
 - The application Ref 2020/00213/PA, dated 6 January 2020, was refused by notice dated 6 March 2020.
 - The development proposed is two storey side and rear extensions and single storey side and rear extensions.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effects of the proposal on the living conditions of the occupiers of 24 Howard Road with particular regard to outlook and light, and the occupiers of 20 Howard Road, with regard to light.

Reasons

3. The appeal property is a semi-detached dwelling with an attached side garage, which together fill the width of the plot. At ground floor level, the proposed side extension would follow the footprint of the existing garage, and would then continue beyond along the length of the existing property, with a set back from the shared boundary with 24 Howard Road (No 24) of around a metre. At first floor level, the side extension would be set back from the shared boundary for its entire length.
4. There are three sizeable windows in the side of No 24 which face the appeal property, including a large window serving the kitchen. The gap between the flank elevation of No 24 and the shared boundary is narrow, but behind the garage of the appeal property there is a wider space. The kitchen window of No 24 looks out over the boundary fence and across this space, and although the outlook is not especially attractive, the existing separation between the two houses provides a degree of openness, with sky and greenery visible in the space between the houses.
5. The proposed two storey extension would significantly reduce the existing gap between the two houses, and would fail to meet the minimum standards for separation between flank walls with windows, as set out in the Extending your Home Supplementary Planning Document (SPD). The outlook from the kitchen

- window of No 24 would become dominated by a high and largely featureless brick wall, the close proximity of which would be oppressive.
6. Whilst the side window is not the only window serving the kitchen of No 24, it is by far the largest, and is positioned next to the occupant's dining table, where he spends time eating meals and reading. As a result of its position in this main habitable room, the poor outlook which would result from the proposal would cause harm to the neighbour's living conditions.
 7. Consideration of the impacts of the proposal on light levels at the neighbouring properties is based on a visual assessment of the characteristics of the site and the relationship between the buildings, rather than any scientific calculation. On my site visit, I was able to visit the kitchen of No 24 so I could appreciate the size and layout of the room.
 8. The day was bright and sunny, so I was able to see that the small window on the rear elevation of No 24 allows direct sunlight into that part of the kitchen which is used for food preparation and dishwashing. However, the kitchen is of a reasonable size, and despite the south facing window, does not feel particularly bright. Although it does not receive direct sunlight, the large side window makes a significant contribution to the natural light entering the room as a whole, especially that part of the space occupied by the dining table.
 9. As a result of its height and close proximity to the side window of No 24, the proposed two storey extension would significantly reduce the amount of daylight reaching the side kitchen window. It would result in part of the kitchen, which is well used by the occupier, feeling dark and gloomy, causing harm to their living conditions.
 10. I note the appellant's comments that other side extensions have been allowed where there was a window, with specific reference made to 40 Maurice Road. I do not have full details of that case, but in any event, each proposal must be judged on its own particular merits, and in this case I have found that the proposal would cause harm as described.
 11. As well as the side extension, the proposed development includes a single storey addition which would extend across the whole of the rear elevation. This would project for some 4.5 metres along the shared boundary with the adjoining property, 20 Howard Road (No 20), which has an existing conservatory and single storey extensions at the rear.
 12. The rear elevations of both the appeal property and No 20 have a southerly aspect. Due to this orientation, the amount of light reaching the rear rooms of No 20 will be unaffected by the proposal for a significant proportion of the day. The conservatory at No 20 will still receive direct sunlight that will provide light to the dining area behind.
 13. There will be some impact later in the afternoon and evening, but light will still enter the conservatory at No 20 through the glazed roof. The conservatory wall is already partly solid along the shared boundary, which would limit the effect of the proposal. In addition, the proposed rear extension would have a hipped roof, which would reduce its overall size and bulk adjacent to the neighbouring property, which would also help to limit the loss of light.
 14. Due to its length and proximity to the shared boundary, the proposed rear extension would not meet the Council's 45 degree code in respect of the dining

room window at No 20. The 45 degree code forms supplementary planning guidance and is a material consideration in this appeal. However, in this case, owing to the factors identified, the proposal would not result in an unacceptable impact on natural light entering the dining room of No 20. As such, it would not cause undue harm to the living conditions of the occupiers of that property. However, this lack of harm to No 20 would not be sufficient to overcome the harm to No 24 which I have identified.

15. I conclude that the proposal would cause harm to the living conditions of the occupiers of 24 Howard Road, with particular regard to outlook and light. Saved Policy 3.14C of the Birmingham Unitary Development Plan 2005 requires that development should have regard to the guidelines contained in relevant Supplementary Planning Documents. In this regard, the proposal fails to meet the requirements of the Extending your Home SPD, the second principle of which requires that extensions do not seriously and adversely affect neighbours, including the need for adequate separation between properties.
16. There is further conflict with the National Planning Policy Framework, which in paragraph 127 requires that development provides a high standard of amenity for existing and future users.
17. In its decision notice, the Council has also referred to Policies PG3 and TP27 of the Birmingham Development Plan 2017, but these policies are concerned with design and place making, and are not directly applicable to the appeal proposal.

Conclusion

18. For the reasons given, the appeal is dismissed.

R Morgan

INSPECTOR