
Appeal Decision

Site visit made on 20 April 2021

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 April 2021

Appeal Ref: APP/P4605/D/20/3257287

196 Alexander Road, Birmingham B27 6HA

- 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 Desmond Manifold against the decision of Birmingham City Council.
 - The application Ref 2020/03095/PA, dated 22 April 2020, was refused by notice dated 5 June 2020.
 - The development is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 196 Alexander Road, Birmingham B27 6HA in accordance with the terms of the application, Ref 2020/03095/PA, dated 22 April 2020, and plan Nos DWG1 and DWG 2.

Procedural matter

2. The application was submitted retrospectively and I have considered the appeal on the same basis.

Main Issue

3. The main issue is the effect of the extension on the living conditions of the occupiers of 194 Alexander Road in respect of their outlook.

Reasons

4. The property is a mid-terraced house with a two-storey rear wing, and this is common to the neighbouring properties. However, there is a covered alleyway, around a metre wide, between Nos. 196 and 194 which is flanked on both sides by close boarded fencing roughly 2 metres in height.
5. The extension has been added to the rear of the wing but is wider than it, by 1.16m as shown on the plans. There is a window on the rear elevation of the main part of No 194 which appears to serve a habitable room. The extension breaches a line drawn at 45° from this window.
6. However as a result of the combination of the width of the alleyway between 194 and 196, the fact that the extension is set back about a metre from the boundary fence, and because the extension is positioned towards the end of the wing, I consider the extension is sufficiently distant from this window such

- that it does not harmfully affect the outlook from it. The modest height of the extension and its shallow roof also limits its bulk when seen from this window.
7. There are a number of additional windows along the side of the rear wing of No 194 which directly face No 196 and run parallel to the extension. However, they are set further back from the boundary than the rear facing window and views of the development from them are largely restricted to its roof which slopes away from the boundary. The outlook from these windows would therefore also not be harmfully affected by the development.
 8. I note the Council's guidance set out in 'the 45° code' document states that it is not usually acceptable to build an extension which fills the gap to the side of the wing. However, the extension does not wholly fill the gap. Moreover, it is further from the rear face of the neighbouring house than the example shown in that document.
 9. In summary, the extension does not affect the outlook from No 194 such that the living conditions of its occupiers are unacceptably affected. Consequently, the extension accords with policy PG3 of the Birmingham Development Plan (2017) which seeks a high design quality for development. It also complies with the 'Extending your Home' and 'Places for Living' Supplementary Planning Documents which aim to ensure development does not have an adverse effect on neighbouring buildings.
 10. The extension does cross the 45° line so would not strictly accord with policy paragraphs 8.39 – 8.43 of the Birmingham Unitary Development Plan (2005) and the '45° code' document described above. Nonetheless, despite this, there would be no adverse effect, as set out above.

Other matters

11. Concerns have been raised with regard to the scale of the extension. However, its scale does not affect the living conditions of the neighbouring residents and there is no other clear reason why the scale of the extension is unacceptable. There are also concerns relating to the use of the property and noise generated by it. The Council have confirmed that its use as a small HMO is lawful, with which I have no reason to disagree, and similarly I have no reason to consider noise generated by the use of the extension would be harmful.

Conditions

12. As the extension has already been built there is no need to impose the Council's suggested conditions relating to the commencement of the development or requiring the materials to match the existing building. The approved plans are set out within the terms of the decision for certainty.

Conclusion

13. The development accords with the development plan taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is allowed.

Andrew Owen

INSPECTOR