



Appeal Decision

Site Visit made on 27 April 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2021

Appeal Ref: APP/P4605/D/20/3262927

35 Oaklands Avenue, Harborne, BIRMINGHAM, B17 9TU

- 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 Mrs Farrell against the decision of Birmingham City Council.
 - The application Ref 2020/04488/PA, dated 15 June 2020, was refused by notice dated 7 September 2020.
 - The development proposed is the installation of no. 1 dormer window to rear with Juliette style balcony.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of no. 1 dormer window to rear with Juliette style balcony, at 35 Oaklands Avenue, Harborne, BIRMINGHAM, B17 9TU in accordance with the terms of the application, Ref 2020/04488/PA, dated 18 June 2020, and the plans submitted with it, 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 plan: drawing by 'Loftstyle' dated 2.04.20.
 - 3) The materials to be used on the external surface of the dormer hereby permitted shall match those used on the existing building.

Main Issue

2. The main issue is the effect of the proposed rear dormer window on the living conditions of the occupiers of properties in Milford Road.

Reasons

Background

3. The appeal site comprises a two storey semi-detached property with a hipped roof which lies in a residential area of similar properties and its rear garden backs on to the gardens of properties facing Milford Road. It is proposed to convert the attic to a bedroom and form a 'box' dormer window with an obscure glass window to a bathroom and main window with a Juliette balcony.

Effect on living conditions.

4. In assessing this effect I have had regard to the Council's supplementary planning guidance (SPG) – 'Places For Living' adopted in March 2001. In order to avoid overlooking and a loss of privacy from development proposals, the SPG puts forward a standard of 21m between building faces for two storey

dwelling and 27.5m for three storeys and above. Moreover, the SPG says that the standard will be applied more strictly at the back rather than the front of a property.

5. The host house has a relatively small rear garden with a depth of about 10m from the original rear wall of the property. The rear gardens of No's 22 and 24 Milford Road exceed about 40m, therefore the 'back-to back' distance between building faces greatly exceeds that for a 3 storey height specified in the SPG but only because of the adjoining properties' garden depth rather than that of the appeal site. This distance means that the actual rear 'faces' of the houses will not be overlooked but the rear gardens could be.
6. At the site visit I noted that there is extensive evergreen and deciduous foliage in the rear gardens of the Milford Road properties and this mostly screens potential views from the dormer window and help prevent direct overlooking. The Council acknowledges the dense vegetation cover provided by the mature trees but submits that this cover could fluctuate over the seasons. However, it appeared to me at the visit that the main belt of trees are evergreen and the occupiers of the Milford Road properties would have control over the retention of the trees.
7. Overall on this issue I find that the distance between the properties means that the neighbouring ones would not be materially overlooked by the proposed dormer window and the existing vegetation provides reasonable screening of the gardens. Overlooking is not likely to arise from the proposal. I find no conflict with the requirements of Policies PG3 or TP27 of the Birmingham Development Plan or saved Policy 3.14c. This accord is not outweighed by any other factor and so the appeal should be allowed.
8. I agree with the Council that only standard conditions need to be imposed on the development as set out above.

Conclusion

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

David Murray

INSPECTOR