
Appeal Decision

Site Visit made on 29 June 2021 by John Gunn DipTP, DipDBE, MRTPI

Decision by M Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2021

Appeal Ref: APP/P4605/D/21/3272607

118 Bryn Arden Road, South Yardley, Birmingham, West Midlands B26 1JY

- 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 and Mrs David Douglas against the decision of Birmingham City Council.
 - The application Ref 2020/09027/PA, dated 9 November 2020, was refused by notice dated 28 January 2021.
 - The development proposed is described as 'Proposed demolition of existing conservatory new single storey rear extension and alterations to previous single storey side extension'.
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Decision

1. The appeal is allowed and planning permission is granted for Proposed demolition of existing conservatory new single storey rear extension and alterations to previous single storey side extension at 118 Bryn Arden Road, South Yardley, Birmingham, West Midlands B26 1JY in accordance with the terms of the application, Ref 2020/09027/PA, dated 9 November 2020, 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: DRWG No. ACL20118 02
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Appeal Procedure

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

Preliminary Matters

3. The original planning application was made in the name of Mr David Douglas. However, the appellant details, as shown on the submitted appeal form, refers to Mr and Mrs David Douglas. Written confirmation has been received from the agent stating that the appeal can proceed in the name of Mr David Douglas alone.

Main Issue

4. The main issue in this case is the effect of the proposal on the living conditions of the occupiers of No 120 Bryn Arden Road having particular regard to its effect on outlook and light.

Reasons for the Recommendation

5. The Council contends that, having taken into consideration their 45 degree code for house extensions, the proposal would adversely impact on the outlook from windows situated in the rear elevation of No 120 Bryn Arden Road and would result in the loss of light to its habitable rooms.
6. The proposed development would result in the replacement of an existing conservatory. The conservatory has an overall depth of 3.575 metres, but given its shape has a shorter depth when measured on the common boundary. It has a pitched roof and utilises predominantly opaque materials, coloured white, on the elevation facing No 120. By comparison the proposed extension would measure 4.5 metres deep on the common boundary, have a flat roof and be constructed in facing brickwork.
7. Given the depth of the proposed extension along the common boundary, when compared with the existing conservatory, together with the materials proposed, I find that it would undoubtedly result in some harm to the living conditions of the occupiers of the adjoining dwelling by reason of a reduction to the existing levels of available outlook. Furthermore, it would reduce the amount of daylight entering the lounge of No 120.
8. In light of the above I conclude that the proposal would result in an additional harmful effect to the living conditions of the occupiers of No 120 by way of outlook and loss of light. It would therefore conflict with Policy PG3 of the Birmingham Plan 2031 - Birmingham Development Plan (adopted 2017), saved paragraphs 3.14C and 8.39-8.43 of the Birmingham Unitary Development Plan 2005, the Places for Living SPG and the Extending your Home SPD. These policies and guidance, amongst other matters, seek high quality design and require the assessment of development proposals to have regard to the impact on neighbouring occupiers. They are consistent with the National Planning Policy Framework.

Other Matters

9. In reaching my decision I must be mindful of the significant fall-back position, which would enable an extension, of the same depth as the proposed development, to be erected adjacent to the common boundary, under permitted development rights. In this regard the Council has confirmed that an extension measuring 5 metres deep, when measured along the common boundary, would not require prior approval¹. On this basis the appeal proposal would have no additional detrimental impact on the occupiers of No 120, than the extension that could be erected under permitted development.
10. Furthermore, given the similarity between the appeal proposal and the development that could be erected under permitted development, there would be a reasonable prospect that, in the event that the appeal was dismissed, the development allowed under permitted development would proceed.

¹ Prior approval reference number 2021/00864/PA

Conditions

11. The Council has suggested several conditions it would wish to see imposed in the event that the appeal was allowed. I have considered these against the guidance on conditions set out in the Framework and the Planning Practice Guidance.
12. To ensure that the development is undertaken as approved, a condition referring to the approved plans is necessary. A condition is also necessary requiring the extension to be constructed of materials to match the host property in the interests of the character and appearance of the area.

Conclusion and Recommendation

13. I have found that the proposed development would result in an additional harmful effect to the living conditions of the occupiers of No 120 by way of outlook and loss of light, however this harm would be limited when taking into account the presence of the existing conservatory. However, I have concluded that the impact of the proposal on the living conditions of the occupiers of No 120 would be no greater than would be the case if the appellants were to carry out the development that could be erected under permitted development. On balance, I must therefore attach significant weight to the fall-back position allowed under permitted development, sufficient to outweigh the limited additional harm arising from the proposed development.
14. For the reasons given above, I therefore recommend that the appeal should be allowed subject to the conditions set out above.

John Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed with the recommended conditions.

M Seaton

INSPECTOR