
Appeal Decision

Site visit made on 29 June 2021 by A J Sutton BA (Hons) DipTP MRTPI

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2021

Appeal Ref: APP/P4605/D/21/3271498
58 Glyn Farm Road, Birmingham, B32 1NP

- 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 Devian Patel against the decision of Birmingham City Council.
 - The application Ref 2020/10292/PA, dated 23 December 2020, was refused by notice dated 19 March 2021.
 - The development proposed is described as 'removing existing concrete panel garage and replace with a single storey larger brick built garage with a green roof'.
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Decision

1. The appeal is dismissed.

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. Additional drawings of the proposed outbuilding which were not submitted with the original planning application form part of the evidence for the appeal. I have considered these under the principles established by the Courts in *Wheatcroft*.¹ As they simply provide illustrations of the proposed outbuilding I conclude that to consider them would not disadvantage anyone who might have otherwise been consulted on these drawings. Accordingly, they have informed this recommendation.
4. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

Main Issue

5. The Council has raised no issues with regards the principle of the proposed outbuilding or its effect on the character of the area. Having considered the evidence and visited the site I find nothing which would lead me to a different conclusion on these matters. Therefore, the main issue is the effect of the proposed development on the living conditions of occupants of No 1 Glynside Avenue, with regards to light and outlook.

Reasons for Recommendation

6. The proposed development would project past the front of 1 Glynside Avenue, which is set at right angles to the site. It would extend along a substantial length of this shared boundary, including the front portion of the side of No 1 dwelling and most of its front drive. The nearest window in No 1 is close to the site boundary at ground floor level and serves a habitable room.
7. The proposal would breach a 45-degree line taken from that window and as such would not comply with the 45 Degree Code for House Extensions set out in paragraphs 8.39-8.43 of the Birmingham Unitary Development Plan (UDP), which are saved policies. The UDP sets out that the purpose of the Code is, *"to achieve a reasonable balance between the interests of those wanting to develop or extend, and the interests of the occupiers of adjoining residential accommodation by ensuring that development would not seriously affect the outlook or daylight of these properties"*. Further guidance on application of the Code is set out in the Council's 45 Degree Code Supplementary Planning Guidance (SPG).
8. The outlook from the nearest ground floor window in No 1 is principally forward down Glynside Avenue. However, there is also some outlook to the side from this window which, whilst dominated by the high wooden fence, allows limited views above the fence and the sky above. A sizeable proportion of the proposed outbuilding would project above this fence for a considerable length and in close proximity to the boundary. As a result, the proposal would dominate the outlook from this window, significantly increasing the sense of enclosure and eroding the existing open aspect above the fence. It would therefore appear as an overbearing addition which would harm the outlook, and thereby the living conditions, of the occupants of No 1 compared to the existing situation.
9. The proposed development would be to the north of No 1 and as such would not affect sunlight to the nearest window of that property. Although taller than the existing fence it would have a very limited impact on daylight to that window compared to the existing situation. Therefore, I find that the proposal would not harm the living conditions of occupants of No 1 with regards to light.
10. Notwithstanding this, the proposed development would harm the living conditions of the occupants of No 1 with regards to outlook. It would therefore be contrary to policy PG3 of the Birmingham Development Plan which seeks to achieve high quality design, and UDP paragraphs 8.39-8.43. It would also conflict with UDP paragraph 3.14C which requires development to have regard to the development guidelines set out in relevant SPGs. Furthermore, it would conflict with the policies of the revised Framework which require a high standard of amenity for existing and future users.

Other Matters

11. Although outbuildings can be built under permitted development rights they are subject to height restrictions when close to the boundary and as such would either have to be lower than the proposal before me or further from the boundary. Either way, the potential fallback position would have a materially different impact to the proposal before me, so carries limited weight.
12. The proposed green roof would contribute positively to the character of the area and would also support local biodiversity. However, given its small scale I attach limited weight to this benefit, which would not outweigh the harm identified in this case.
13. The proposal would not result in a loss of neighbours' privacy, however this is a neutral factor in this appeal.

Conclusion and Recommendation

14. There are no material considerations, including the Framework and the benefits of the scheme, that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree that the appeal should be dismissed.

L McKay

INSPECTOR