



Appeal Decision

Site Visit made on 4 August 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2021

Appeal Ref: APP/P4605/D/21/3275979

256 Dyas Road, Great Barr, Birmingham B44 8TE

- 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 S Singh & Mrs N Kaur against the decision of Birmingham City Council.
 - The application Ref 2021/01482/PA, dated 22 February 2021, was refused by notice dated 14 April 2021.
 - The development proposed is described as "retention of single rear extension".
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Decision

1. The appeal is allowed and planning permission is granted for single storey rear extension at 256 Dyas Road, Great Barr, Birmingham B44 8TE in accordance with the terms of the application, Ref 2021/01482/PA, dated 22 February 2021, and the plans submitted with it.

Preliminary Matters

2. The description of development in the header above is taken from the application form. In my decision, I have omitted the words "retention of" as these do not describe an act of development and so are superfluous. For clarity purposes, I have included the word "storey" as stated in the description on the appeal form.
3. On my visit I saw a rear extension, apparently constructed in accordance with the appeal plans. As such, it appears the appeal development has been completed. However, my assessment is based on the submitted drawings.
4. I have invited comments from the main parties on the revised National Planning Policy Framework, issued in July 2021. No responses have been received.

Main Issue

5. The main issue is the effect of the development on the living conditions of occupiers of 258 Dyas Road (No 258) in terms of outlook and light.

Reasons

6. The appeal property is attached to No 258, although there is a shared passageway from the front to the back between the houses. A close boarded fence runs along the common boundary to the rear. The single storey extension has been added to an existing extension. No 258 has not been extended and so the development adds length to the projection beyond its rear wall.

7. The nearest ground floor rear window of No 258 to the appeal site forms the upper part of a door. It is obscured glazed and so it provides no significant outlook. A clear glazed ground floor window further along the rear of No 258 provides views of the development above the boundary fence. However, as it is away from this window, the extension only influences the periphery of views with the main outlook onto the back garden left unaffected.
8. Due to its projection beyond the plane of the back wall, the extension causes a loss of morning sunlight to No 258 at times during the year. However, as it is single storey and set off the boundary, the level of overshadowing to the nearest window is inconsequential to the living conditions of the neighbouring residents, particularly as the window is obscured glazed. Also, the extension causes a loss of sunlight to No 258's clear glazed ground floor window when the sun is low in the sky. However, given its single storey height, as well as the separation distance and relative position, no meaningful overshadowing is caused. As they are south facing, No 258's rear windows still benefit from a reasonable level of sunlight and daylight, despite the extension.
9. The appellant does not contest the Council's claim that the development fails to comply with the 45° code for house extensions in respect of No 258's rear windows. However, the Council's information on the code dated March 2006 indicates that a single storey extension on the end of an existing wing will be looked at on its merits and may be acceptable as long as it leaves enough garden. Sufficient outdoor space remains to serve the occupiers of the appeal property. As such, the development's non-compliance with the 45° code is not in itself determinative in the assessment of the appeal. For the reasons set out above, the extension has negligible effect on the standard of living accommodation at No 258, irrespective of the conflict with the 45° code.
10. Therefore, I conclude the development has an acceptable effect on the living conditions of the occupiers of No 258 in terms of outlook and light. In these regards, it accords with policy PG3 of the Birmingham Development Plan 2017 which amongst other things, seeks to ensure development responds to site conditions. The extension does not comply with the 45° code and so it does not fully accord with policies 3.14 and 8.39 to 8.43 of the Birmingham Unitary Development Plan 2005. However, the other considerations set out above are of sufficient strength to collectively outweigh that non-compliance such that planning permission should be granted.
11. Therefore, I conclude the appeal should be allowed. The extension has been completed and so there is no need for the conditions suggested by the Council.

Jonathan Edwards

INSPECTOR