



Appeal Decision

Site Visit made on 13 July 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Appeal Ref: APP/P4605/W/21/3272818

Douper Hall, Dawlish Road, Selly Oak, Birmingham, B29 7AE

- 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 Douper, Student Stay Limited against the decision of Birmingham City Council.
 - The application Ref 2019/09279/PA, dated 4 November 2019, was refused by notice dated 12 February 2021.
 - The development proposed is proposed alterations and extensions to existing student accommodation. New accommodation comprises new floor to existing two storey block and 3 storey infill and 3 storey new block to car park.
-

Decision

1. The appeal is dismissed.

Main Issues

2. These are the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to privacy and light, and on surface water drainage.

Reasons

3. Block D would exceed the height of the properties fronting Dawlish Road and it would be within proximity of their rear gardens. As a result, the development would appear unduly overbearing on occupiers when in their rear living spaces and gardens. As the gardens are short, this harm to outlook would be particularly acute.
4. I recognise that the distance between the block D and the principal rear elevation of these houses would be greater than between the block and the outriggers and rear extensions at these properties. However, the latter accommodate living areas which, for the reasons given, would become oppressive spaces to dwell in because of the development.
5. I do not agree with the appellant that block D would be sufficiently narrow to bypass immediate views from the neighbouring properties. It is evident from the drawings before me that the outer walls of Block D align with two houses which I noticed on my site visit have windows and gardens that would directly overlook the development.
6. Given the height of block D and its proximity to the neighbouring properties fronting Dawlish Road, there would be a discernible loss of sunlight to the gardens, and some loss of light to the rear internal living spaces. I accept that

this loss would be experienced in the latter part of the day, as the sun moves to the west. But occupiers often enjoy sun in the garden at this time of the day.

7. I agree with the appellant that the Council's reference to the roof terrace having a 'potential' adverse impact is equivocal. Nevertheless, the Council's concern is clearly identified in its delegated report and appeal statement. The terrace would introduce social activity into an open environment, at second floor level and during the day and night. The noise emitted would be readily heard by occupiers of the houses fronting Dawlish Road, particularly when these residents are in their garden. The terrace proposed does not compare with the existing terrace given that the latter is at ground floor level and benefits from the adjoining wall which, because of its height, helps to insulate against sound.
8. I have no evidence of Regulatory Services commenting specifically on the terrace but I note that they raised no objection, subject to a condition pertaining to noise insulation. As the terrace would be open to the elements, I am not clear how the terrace could be insulated against sound. A condition regarding noise insulation, therefore, would not mitigate the harm identified.
9. The obscure screen proposed around the terrace would be set at the industry standard of 1.7 metres which would ensure that users of the terrace could not look into neighbouring gardens. Bearing in mind that eye level is generally less than 1.7 metres I am satisfied that the screen proposed would provide adequate privacy.
10. For the same reason, the windows proposed in the roof of Block B, being at a height of 1.7m above finished floor level, would prevent students overlooking the adjoining gardens and invading the privacy of existing occupiers.
11. The occupiers of bedroom 3-01 proposed in Block C would overlook the rear gardens to the properties fronting Dawlish Road. However, within the line of vision from the bedroom, there are rear extensions and outriggers. Together with the tall wall on the shared boundary which would obscure immediate views, the privacy of the occupiers living in Dawlish Road when in their rear gardens would not be affected by overlooking from bedroom 3-01.
12. The evidence before me demonstrates that the proposed development can be supported by an adequate surface water drainage scheme. If I were to allow the appeal, these details could be secured by condition.
13. All in all, I find that the development would comply with Policy TP6 of the Local Plan (2017) which seeks development that manages surface water without causing or exacerbating flooding. However, the development would not comply with Policy PG3 of the Local Plan (2017) and Saved Policy 3.14C of the Birmingham Plan (2005) which, amongst other things, seek development that demonstrates a high quality of design which is identified in Places for Living (2001) as including places which provide residents with privacy and adequate sunlight.

Conclusion

14. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination,

that outweighs the identified harm and associated development plan conflict.
For the above reasons, the appeal is dismissed.

R Walmsley

INSPECTOR

