
Appeal Decision

Site visit made on 11 October 2021 by A J Sutton BA (Hons) DipTP MRTPI

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Appeal Ref: APP/Q4625/D/21/3275615

124 Elmdon Lane, Marston Green, Solihull, West Midlands, B37 7EG

- 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 Mohammed Taj against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/03078/MINFHO, dated 24 December 2020, was refused by notice dated 21 April 2021.
 - The development proposed is described as 'Proposed rear balcony to first floor rear bedroom.'
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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. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Whilst I have had regard to the revised national policy as a material factor, 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.
4. Construction work was underway at the time the site visit was conducted. The concrete shell of a large two storey dwelling was in situ towards the front of the appeal property plot.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupants of 122 and 126 Elmdon Lane, with regards privacy, noise and disturbance.

Reasons for Recommendation

6. Elmdon Lane forms part of a suburban estate that, despite its proximity to Birmingham Airport, appears a tranquil residential area. It is characterised by detached and semi-detached dwellings, set in spacious plots with good sized rear gardens, in a linear pattern of development.
7. The footprint of the large two storey dwelling at the appeal property extends close to the shared side boundary of Nos 122 and 126. Dwellings at these neighbouring properties are also built close to the shared boundaries with the appeal property. The depth of the appeal dwelling is somewhat deeper than the neighbouring dwellings. It also has a protruding rear single storey structure extending much of the width of its rear elevation. This structure extends a distance beyond the rear building line of the dwelling at No 122 and it is positioned close to the shared boundary with that property.
8. The proposal would create an elevated, spacious and open area which would be accessed from one of the central rear bedrooms of the dwelling. It would be stepped in from the shared boundaries with Nos 122 and 126 and would be set into the crown of the roof of the single storey protrusion.
9. The bank of large floor to ceiling openings, with Juliette style balconies flush to the windows, at first floor level of the rear of the appeal dwelling would afford views over neighbours' rear garden space. However, the addition of a large open platform with a substantial depth, projecting from the aperture of the bedroom, would allow high-level and significantly extended views of the outside space close to the rear elevation of No 122, and over much of the rear garden space of both neighbouring properties. Consequently, the occupants of these dwellings would experience a substantial sense of being overlooked when using these parts of their properties. The development would considerably erode any existing sense of privacy they currently enjoy when using their rear garden space.
10. The proposed hips to either side of the balcony would only extend a short distance along the depth of the balcony and the railings would be relatively low and open. As such these features would not mitigate the harmful loss of privacy for the occupants of No 122 and 126.
11. Although noting that the sizeable balcony would serve a bedroom, the proposed largely open terrace would easily accommodate furniture to allow a number of people to comfortably gather and socialise for indeterminate periods of time. Such activities at a perched position would give rise to inadvertent noise and disturbance from people using this space. Noise from people's conversations, music etc. at this height would be less muffled and significantly more noticeable than would be the case with noise emanating from equivalent activities in the confines of a rear garden, at ground level and where it is screened by boundary fences and vegetation.
12. The catslide roof at the rear elevation of No 122, close to the shared boundary, would minimise the resultant increased noise from reaching rear bedrooms of that dwelling. The stand-off from, and set back position of the dwelling at No 126, would also minimise this harmful effect at rear habitable rooms at this property. However, the material change in noise would disturb the occupants of No 122 when they sit in the outside area close to the rear elevations of their dwelling. It would also be disruptive for occupants of both Nos 122 and 126

when using the rear garden space near the proposed balcony. The harmful increase in noise and disturbance in these currently tranquil parts of the neighbouring properties would render the rear outside spaces significantly less peaceful places to use. This would be detrimental to the living conditions of occupants of Nos 122 and 126 in this respect.

13. I have had regard to the support for the proposal from the current occupant of No 122. However, I must consider the effect on existing and potential occupiers of neighbouring dwelling and I have found harm in this case. I attached limited weight to this matter for this reason.
14. I conclude that the proposal would have a harmful effect on the living conditions of the occupants of 122 and 126 Elmdon Lane, with regards privacy, noise and disturbance. In this respect it would conflict with policy P14 of the Solihull Local Plan 2013 which seeks to protect and enhance the amenity of existing and potential occupiers of houses, businesses and other uses in considering proposals for new development.
15. It would be inconsistent with guidance set out in the House Extension Guidelines Supplementary Planning Document which advises that particular care is needed where balconies are proposed to retain privacy to neighbours' habitable rooms and private gardens. It would also be contrary to policies of the Framework which require a high standard of amenity for existing and future users.

Conclusion and Recommendation

16. There are no material considerations 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

17. I have considered all the submitted evidence and agree with the recommendation. The appeal is therefore dismissed.

Zoe Raygen

INSPECTOR