
Appeal Decision

Site Visit made on 2 November 2021

by John Gunn Dip TP, Dip DBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2021

Appeal Ref: APP/P4605/W/21/3280066

50 Kendrick Grove, Hall Green, Birmingham B28 0GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Rizwan Ul-Haq Malik against Birmingham City Council.
 - The application Ref 2021/02774/PA is dated 27 March 2021.
 - The development proposed is described on the application form as to 'Raise groundwork level of garden by maximum height of 7 cm, level with patio door framework. 60:40 estimated ratio split of artificial grass and decking to be laid on top of raised groundworks level framework. Flowerbed integrated into raised groundworks level framework around perimeter of garden. Trees to be planted into the flowerbed section to not exceed the maximum height of the current fence within the garden. Ramp section will be built into the decking by the existing garden gate/door entrance with the garden boundary. Outdoor rated twin electrical socket to be installed within the same locality as the current installed garden tap. Decking lights to be installed running parallel with flowerbed perimeter'.
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Decision

1. The appeal is allowed, and planning permission is granted for the following: to raise groundwork level of garden by maximum height of 7 cm, level with patio door framework. 60:40 estimated ratio split of artificial grass and decking to be laid on top of raised groundworks level framework. Flowerbed integrated into raised groundworks level framework around perimeter of garden. Trees to be planted into the flowerbed section to not exceed the maximum height of the current fence within the garden. Ramp section will be built into the decking by the existing garden gate/door entrance with the garden boundary. Outdoor rated twin electrical socket to be installed within the same locality as the current installed garden tap. Decking lights to be installed running parallel with flowerbed perimeter at 50 Kendrick Grove, Hall Green, Birmingham B28 0GD in accordance with the terms of the application, Ref 2021/02774/PA, dated 27 March 2021, 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 plans: Location Plan, Site Plan, Rear Garden Landscaping Layout, Raised Garden Level Plan and Ramp Design Plan.

Main Issue

2. The Council failed to determine the application within the statutory period. However, they have explained at appeal that they are of the view that the proposal would not harm the residential amenities of the neighbouring occupiers, nor would it cause harm to the existing property or the street scene. They have indicated that had it been able to decide the application, it would have been permitted subject to conditions.
3. Notwithstanding the above, I am conscious that objections have been raised by neighbouring residents. Accordingly, the main issue is the effect of the proposed development upon the living conditions of the occupiers of neighbouring properties, having particular regard to privacy and outlook.

Reasons

4. The rear garden of the host property is enclosed on all sides by a 1.8 metre high close boarded fence which currently provides a good level of privacy to all neighbouring properties. That is typical of the area and within the limit generally applicable to the erection of fences under permitted development (i.e. without specific consent). Whilst noting the change in ground levels between the properties in Kendrick Grove and Petersfield Road, I find that the considerable distance between the respective properties, the presence of mature trees close to the common boundary, and the small change in ground level proposed, would mean any effect on outlook or privacy that would be experienced by occupiers of properties in Petersfield Road would be barely perceptible.
5. Given the above I conclude that the proposal would not result in harm to the living conditions of the occupiers of neighbouring properties with regards to privacy or outlook. As a result, the proposed development would accord with Policy PG3 of the Birmingham Plan 2031, Saved Policies 3.14A – 3.14D of the Birmingham Unitary Development Plan 2005 and the Home Extensions Design Guide SPD (2007) which, amongst other matters, seek to ensure that development does not adversely affect the amenity of neighbouring residents.

Conditions

6. I have imposed conditions pertaining to the timescale for commencement of development and the approved plans for clarity, certainty and enforcement. I do not consider a condition requiring the materials to match the main building is necessary as they are acceptable with reference to the prevailing context as specified on the approved plans.

Other matter

7. I note the appellants concern about the delay in reaching a decision on the application, by the Council. Whilst this is regrettable, that matter relates to the administration of the application rather than the planning merits of the scheme, which are the matters in hand in this decision.

Conclusion

8. For the above reasons, I conclude that the appeal should succeed, and planning permission be granted subject to the conditions set out above.

John Gunn

INSPECTOR