



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: 24 November 2021

Appeal Ref: APP/P4605/D/21/3269622

289 Dawlish Road, Birmingham, B29 7AU

- 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 Sandeep Krishan, Flare Homes Ltd against the decision of Birmingham City Council.
 - The application Ref 2020/05301/PA, dated 10 July 2020, was refused by notice dated 6 January 2021.
 - The development proposed is a two-storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are three appeals relating to this site, one being the subject of this appeal, the other two being ref APP/P4605/W/21/3268115 and ref APP/P4605/W/21/3268117. I am determining all three appeals.
3. At the time of my site visit there were unauthorised works at the site (part single storey and part two storey rear/side extension and roof enlargements) which were the subject of an enforcement notice.

Main Issues

4. These are the effect of the proposal on (i) the living conditions of neighbouring occupiers with particular regard to outlook and light and on (ii) the character and appearance of the area.

Reasons

Living conditions

5. The Council's 45 Degree Code Supplementary Planning Guidance (2006) (SPG 2006) and the Extending Your Home Supplementary Planning Guidance (2007) (SPG 2007) advise that building work should not cross the 45-degree line. For two-storey developments, this line should be taken from the quarter point of the nearest window of the neighbouring property.
6. The drawings before me show that the development would cross the 45-degree line when taken from the mid-point of the nearest window to both neighbouring properties. When a line is drawn from the quarter point, the development exceeds the 45-degree line further. And so, the development would create an oppressive outlook for neighbouring occupiers on both sides of the appeal site.

Furthermore, the development would restrict the levels of daylight into the rear living spaces of the neighbouring properties, creating gloomy living areas for neighbouring residents.

7. For these reasons, the development would be harmful to the living conditions of neighbouring occupiers with particular regard to outlook and light and therefore would be contrary to Policy PG3 of the Local Plan (2017) (LP) and saved paragraph 3.14C of the Unitary Development Plan (2005) (UDP) which, amongst other things, seek development of a high design quality. The development would also be contrary to saved paragraphs 8.39-8.43 of the UDP and SPG (2006) and SPG (2007) which advise that development should not cross the appropriate 45-degree line.

Character and appearance

8. The development would be a notable extension of the existing property, particularly at first floor level. As a result, the original form of the host dwelling would be lost to an extension that would not be subservient to the existing building in the way the SPG (2007) recommends.
9. The rear elevation of the appeal property is screened from public view. The extension would be visible between the existing and neighbouring property but this would be a glimpsed view and therefore the development would not have a material effect on the character of Dawlish Road. Nevertheless, the SPG (2007) suggests that it is also important to consider how an extension will look from neighbouring properties. In rear views from neighbouring properties the development would appear unduly dominant and therefore incongruous in relation to the host property.
10. All in all, the development would be harmful to the character and appearance of the area, contrary to Policy PG3 of the LP and saved paragraphs 3.14C of the UDP and the SPG (2007) which seek high quality development that responds to local context and complements the scale of the original house.

Other Matter

11. The appellant suggests that the development would be less harmful than the unauthorised works. However, as these works are unauthorised, the starting point for considering the appeal is the dwelling as it was before the unauthorised works were carried out. It is on this basis that I have found harm.

Conclusion

12. 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