



Appeal Decision

Site visit made on 30 November 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2021

Appeal Ref: APP/P4605/W/21/3281484

101-103 Nineveh Road, Birmingham B21 0SX

- 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 Poonkkulaly Poobalasingham against the decision of Birmingham City Council.
 - The application Ref 2021/03520/PA, dated 19 April 2021, was refused by notice dated 28 July 2021.
 - The development proposed is demolish the existing back extension and rebuild a single storey back extension with a footprint of 4.4 x 9m for an accessible bedroom, bathroom and WC to adjoining an existing end-of-terrace house.
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Decision

1. The appeal is dismissed.

Procedural matter

2. At the time of my site visit the rear extension had been demolished.

Main Issue

3. This is the effect of the proposal on the living conditions of the neighbouring occupiers, with particular regard to outlook and light.

Reasons

4. The Council's 45 Degree Code Supplementary Planning Guidance (SPG 2006) advises that building work should not cross a 45-degree line taken from the nearest front or rear window of the house that may be affected by the development proposed. The house affected by the extension would be No 105 Nineveh Road. At the rear of this property is a ground floor window that overlooks the rear garden. The extension proposed would cross the imaginary line drawn from this window at an angle of 45 degrees and therefore would have a harmful effect on the outlook from and levels of light to No 105.
5. The SPG 2006 states that the 45-degree code does not apply to side windows and therefore it is not necessary to draw a line from the ground floor window at No 105 that faces the appeal property. The SPG 2006 advises, however, that the impact on outlook and light should be assessed on its merits, taking into account the size of the extension and the distance between it and the neighbouring property. The development would extend a notable distance along and on the shared boundary with No 105. Because of this the development would reduce the levels of light into the living areas at No 105 and create an oppressive outlook from the living areas at ground floor level at

this property. The passageway created between the host property and the extension proposed would do little to mitigate the harm identified.

6. The appeal property had a rear extension that crossed the 45-degree line and therefore prior to it being demolished it would have had some impact on outlook and light. However, unlike that proposed, the extension did not abut the shared boundary with No 105 and therefore the two extensions are not comparable.
7. The height of the development proposed may have been kept to a minimum and may not extend far above the boundary fence. However, given the length of the extension and its proximity to the shared boundary, the harmful effects identified would remain discernible.
8. And so, for the reasons given, 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 saved paragraphs 3.14C and 8.39-8.43 of the Unitary Development Plan (2005) and the SPG (2006) which, amongst other things, seek development that is not harmful to neighbouring occupiers.

Conclusion

9. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. For the above reasons, the appeal is dismissed.

R Walmsley

INSPECTOR