



Appeal Decision

Site visit made on 5 January 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/P4605/D/21/3286016

16 Selly Oak Road, Birmingham B30 1LS

- 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 and Mrs D and G Ghica against the decision of Birmingham City Council.
 - The application Ref 2021/05897/PA, dated 30 June 2021, was refused by notice dated 25 August 2021.
 - The development proposed is a single storey rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 16 Selly Oak Road, Birmingham B30 1LS in accordance with the terms of the application, Ref 2021/05897/PA, dated 30 June 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 insofar as they relate to the single storey rear extension only: 21 2815/1A Plans/Elevations Existing + Location Plans. 21 2185/2C Ground Floor Plan Proposed, 21 2815/3C First Floor Plan Proposed, 21 2815/4B Second Floor/Rear Elevation Proposed, 21 2815/5C Side Elevation/Section 1-1 Proposed.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. In my description of development above I have omitted the additional information the applicant set out regarding a dormer window which does not form part of the appeal scheme. Since this element is also shown on the proposed plans I have drafted the relevant condition accordingly.

Main Issue

3. The main issue is whether the proposed development would provide acceptable living conditions for the occupiers of No 14 Selly Oak Road, with particular regard to outlook and light.

Reasons

4. There is an existing single storey extension at the appeal property that extends along the side boundary of the appeal site. An approximately 1.8 metre high wall acts as the boundary between the appeal site and No 14. The existing extension is solid in construction with a conservatory at its end and has been built against a solid wall.
5. The proposed development would replace the existing extension. It would have a mono pitch roof and extend some 9 metres from the rear of the host dwelling. The proposed extension would breach the 45 degree rule specified within the Birmingham City Council's Supplementary Planning Guidance (SPG) The 45° Code (March 2006). However, the existing extension already breaches this rule and severely limits the outlook from No 14's ground floor window. Additionally, the SPG allows for exceptions to this where older terraced properties, such as the appeal property, already have an extension that breaches the 45 degree rule.
6. The proposed development would extend further than the existing extension. However, along the boundary between the appeal site and No 14 is the aforementioned high wall. Taking account of the existing circumstances, the increase in width and length of the extension would not have a significantly greater enclosing effect on the outlook from No 14's ground floor window nor would it further restrict light. I note the comments from the Council that part of the existing extension is a conservatory that would lessen any impact, however from my site visit it was clear that this is a solid construction that would not have any less of an impact if it had a slated/tiled roof rather than glass.
7. Consequently, I find the development would comply with the relevant elements of Policy PG3 of the Birmingham Development Plan (2017), saved paragraphs 3.14C and 8.39-8.43 of the Birmingham Unitary Development Plan (2005) and the guidance contained within the 45 Degree Code (2006) which seek, amongst other things, to ensure that all new development would not seriously affect the outlook or daylight of occupiers of adjoining residential accommodation. The appeal scheme would also not be contrary with paragraph 130 of the National Planning Policy Framework that seeks high standards of amenity for existing users.

Conditions

8. In the interest of certainty, enforcement and safeguarding the character and appearance of the area, conditions regarding the standard time limit for the commencement of development, adherence with approved plans and the use of matching material are considered to be necessary.

Conclusion

9. The appeal scheme would accord with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision otherwise. The appeal should therefore, subject to the above mentioned conditions, be allowed.

Tamsin Law

INSPECTOR