
Appeal Decision

Site visit made on 28 February 2022 by A J Sutton BA (Hons) DipTP MRTPI

Decision by B J Sims BSc (Hons) MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2022

Appeal Ref: APP/P4605/D/22/3291327

124 Handsworth Wood Road, Birmingham, B20 2PN

- 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 Zahid Khan against the decision of Birmingham City Council.
 - The application Ref 2021/09527/PA, dated 7 November 2021, was refused by notice dated 23 December 2021.
 - The development proposed is described as 'Alterations to proposed kitchen roof'.
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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. Planning permission¹ was recently granted for the remodelling of the appeal property which includes a sizeable upward extension. The approved plans also allow a single storey family/kitchen room with a mono-pitched, glazed roof, close to the shared boundary with No 122. At the time the site visit was conducted, the approved works had not commenced.
4. The description on the decision notice relevant to this appeal matches the description of development permitted by the above permission. The information submitted in this appeal, however, shows that this proposal is limited to alterations to the approved family/kitchen room. Therefore, for the avoidance of doubt the description in the application form is the basis for this appeal decision.
5. A Section Plan submitted with the appeal was not part of the original planning application. The plan shows a section of the proposal and does not seek to modify the scheme that was subject of the planning application. I am therefore satisfied that considering this plan in this appeal would not deprive those who should have been consulted on a change, the opportunity of such consultation.
6. No objections to the proposal were raised by neighbours at the application stage. However, a letter outlining the neighbour's concerns was submitted during this appeal process. A copy was sent to the appellant for comment and their subsequent response has been considered in this recommendation.

¹ Ref 2021/02851/PA

Main Issue

7. Browne's Green Lodge is the neighbouring property and a Grade II listed building. The Lodge is a 19th Century property described as a cottage ornee. Originally influenced by the Romantic Movement, it's rendered walls, overhanging roof tiles and ogee arch headed casement windows contribute to the significance of this designated heritage asset. In considering whether to grant planning permission for development which affects a listed building or it's setting the determining authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
8. The designated asset has a prominent corner location where its decorative architectural style and historic original diminutive form can be easily appreciated from the public highway and from the pavement close to the entrance of the appeal property. It is surrounded by large, detached dwellings of a very different character. This includes the appeal property, the existing built form of which is set back from the asset but close to the side boundary, extending along a significant portion of the asset's rear garden.
9. The proposal before me would be screened from the listed building and its rear garden by the existing built form of the appeal property, this would also be the case if the property was redeveloped in accordance with the approved plans of the recent planning permission. I am therefore content that the proposal for this reason would not harm the significance of the listed building or its setting.
10. The main issue upon which this case turns is therefore the effect of the proposal on the living conditions of the occupants of 122 Handsworth Wood Road, with regards to outlook and light.

Reasons for the Recommendation

11. The appeal property and No 122 have long plots, with the dwellings set in similar positions and their built forms filling most of the width of these plots. There is, as a result, a narrow gap between the side elevations of No 122 and the appeal property. However, the existing rear patio area at the appeal property aligns with the windows on the side elevation of No 122 which serve the kitchen of this property. These aspects of the respective properties are substantially screened by the high solid concrete wall at this shared side boundary.
12. The existing outlook from the kitchen windows of No 122 is principally of the boundary wall. But there is some space above the wall with the existing built form of the appeal property from this aspect being set well back from the shared boundary. This allows limited views of the sky when looking upwards which was apparent even through the net curtains. The existing space also allows light at these windows that are set close to the shared boundary.
13. The rear existing L-shape built form of the appeal property will be extended upwards to form two-storeys under the recently secured planning permission and this will obscure a strip of sky currently visible when looking from the neighbouring kitchen windows. The patio space will also be filled with a single storey structure but only the glazed mono-pitched roof will be visible above the shared boundary, and the space above the wall at the immediate boundary will be retained.

14. This present appeal proposal would result in the same footprint to the family/kitchen room as the previously approved scheme. Whilst a substantial section of the proposed side elevation would be screened by the boundary wall, a significant proportion of the structure fill the existing space immediately above the existing wall. It would as a result appear as an overbearing feature which would dominate and materially alter the outlook from the kitchen windows at No 122.
15. There would be no noticeable change in direct sunlight at these windows given the orientation of No 122. However, the proposed construction, so close to the boundary, would restrict daylight reaching the kitchen windows. The harmfully enclosing effect of the development and resulting loss of daylight would make this habitable room at No 122 an unacceptably less pleasant place for its occupants to use. Painting the development in a light colour would not fully mitigate the harmful loss of light. Moreover, this would not make the feature any less oppressive.
16. Whilst the pitched roof of the approved family/kitchen room will be a similar height to that in the appeal proposal at its highest point, the approved roof will significantly reduce in height at the shared boundary. The approved solid side elevation will also be substantially lower than in the proposal before me. Therefore, although the outlook from the kitchen windows at No 122 will change as a result of the recent planning permission, the proposed solid blocky form, close to the boundary would be considerably more imposing than the approved family/kitchen room and would be significantly more harmful for this reason.
17. For the reasons outlined, I therefore find that the proposal would have a harmful effect on the living conditions of the occupants of 122 Handsworth Wood Road, with regard to outlook and light. It would, in this respect, conflict with policies PG3 and TP27 of the Birmingham Development Plan and policy DM2 of the Development Management in Birmingham Development Plan Document, which collectively require a high design quality, and amongst other matters, that proposals will not result in unacceptable adverse impact on the amenity of occupiers and neighbours.
18. The development would also be inconsistent with the advice set out in Places for Living Supplementary Planning Guidance and Extending your Home Supplementary Planning Document, and design policies of the National Planning Policy Framework which require a high standard of amenity for existing and future users.

Other Matters

19. I have had regard to the appellant's comments that the design is necessary to prevent overlooking from side windows on upper floors at No 122. However, I am not persuaded that this harmful development would be the only means to improve privacy at this aspect of the appeal property and therefore I attach limited weight to this matter.
20. I note that the Council's conservation officer raised no objection but lack of harm in this connection does not justify development which would be unduly harmful to neighbours' living conditions.

Conclusion and Recommendation

21. 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

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

B J Sims

INSPECTOR