



Appeal Decision

Site visit made on 8 March 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Monday 28 March 2022

Appeal Ref: APP/P4605/W/21/3284566

81 Lambeth Road, Birmingham B44 9NW

- 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 Sean Medford against the decision of Birmingham City Council.
 - The application Ref 2021/03398/PA, dated 13 April 2021, was refused by notice dated 26 August 2021.
 - The development proposed is erection of first floor side extension, single storey forward extensions with canopy, ground floor bay window to front, new pitched roof over existing rear extension, installation of dormer windows to rear and rooflights to front.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the banner heading above, I have taken the description of development from the Council's decision notice and the appellant's appeal form as this more accurately describes the appeal proposal.
3. It was noted that the appellant details on the appeal form were different from the applicant details on the application form. Clarification was therefore sought on the matter. The applicant was Mr Sean Medford, the son of Mr Dave Medford who is the appellant and also the owner of the property. Therefore, there is a clear relationship between the applicant and the appellant. As only the person who made the planning application can make an appeal, the name in the banner heading above is that of the applicant.
4. I also note that the appeal form indicates that the appeal was submitted against a failure of the Council to make a decision on the application. A decision notice was issued by the Council on 26 August 2021, whilst the appeal form was completed on 9 October 2021. Therefore, a decision on the planning application had been formally issued by the Council when the appeal was lodged, and I have determined the appeal on the basis that planning permission was refused for the proposed development.
5. Both parties have drawn my attention to the amended plans that were submitted during the determination of the planning application. I have determined this appeal based on these plans.

Main Issues

6. The main issues are the effect of the proposal upon the living conditions of the occupants of 83 Lambeth Road and 767 and 769 Queslett Road, with respect to

privacy, outlook and light and the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area.

Reasons

Living Conditions

7. 81 Lambeth Road is an end of terrace, brick built property situated in a predominately residential area. Owing to its position at the end of Lambeth Road, the rear garden of No 81 is angled and is surrounded by neighbouring properties on all sides. No 83 Lambeth Road is positioned at a 90 degree angle to No 81, with the rear of No 81 facing the side elevation of No 83. The appeal property has an existing flat roofed garage to the side, which the rear garden of No 83 wraps around to the rear. The proposed first floor extension would extend above this existing garage. The rear elevations and rear gardens of 767 and 769 Queslett Road back on to the rear of the appeal site. No 81 is also at a slightly higher level than No 83 and Nos 767 and 769.
8. Due to the scale and proximity of the first floor extension above the existing garage, its positioning directly on the shared boundary with No 83 and it being situated at a slightly higher level than No 83, it would have an unacceptable overbearing effect upon the outlook from both the back garden and rear habitable rooms of No 83.
9. It is acknowledged that the first floor window to the side elevation overlooking No 83 could be obscure glazed. However, due to the proximity of this window to No 83, it would still lead to the perception of being overlooked, resulting in an unacceptable loss of privacy for the occupiers of No 83.
10. Two high level first floor rear windows would be positioned in the extension above the garage. Whilst the high level design of these windows would assist to mitigate against any overlooking to neighbouring gardens, it is still considered that due to the proximity of these windows to the shared boundaries with Nos 767 and 769, the proposal would result in an unacceptable loss of privacy to the occupiers of these properties.
11. In regards to the rear dormer windows, the use of the terrace windows and top windows would again assist to mitigate any overlooking. However, these windows would still result in an element of overlooking and loss of privacy to the occupants of Nos 767 and 769. This would be emphasised by the fact that the appeal site is at a slightly higher elevation than these neighbouring properties. I note the Council also raise concern that these windows would not provide sufficient light into the proposed loft area. However, the loft room would also be served by 4 rooflights, 3 to the larger room and 1 to the smaller room. Therefore, it is considered that in combination with the proposed rooflights, the proposed dormer windows would provide sufficient light to the occupiers of the appeal site. Nevertheless, this would not overcome the harm that I have identified to the neighbouring properties.
12. The Council have expressed the view that the proposed first floor side extension would be harmful to the living conditions of No 83 by virtue of loss of light as well. I acknowledge that No 83 is situated at a slightly lower level than the appeal site. However, due to the distance between the extension and the rear elevation of No 83, it is not considered that the proposal would substantially reduce the amount of daylight and sunlight reaching No 83.

13. The proposal would therefore be harmful to the living conditions of the occupants of 83 Lambeth Road with respect to privacy and outlook and 767 and 769 Queslett Road, with respect to privacy. It would be contrary to Policies PG3 and TP27 of the Birmingham Development Plan (BDP) (2017), which seek to promote good place making and sustainable neighbourhoods. It would fail to meet the guidance within the Places for Living Supplementary Planning Guidance (SPG) (2001) and Principle 2 of the Extending your Home Supplementary Planning Document (SPD) (2007) which both seek to protect neighbouring amenity. It would also conflict with saved Paragraph 3.14C of the Birmingham Unitary Development Plan (UDP) (2005) which states that development should have regard to the relevant SPG/SPD's. It would also conflict with paragraph 130 (f) of the National Planning Policy Framework (the Framework) (2021) which states that development should have a high standard of amenity for existing and future users.

Character and Appearance

14. The appeal site is at the end of a terrace of 4 properties. At present, all 4 of these properties have retained their original roof form, resulting in a clear sense of uniformity. Due to the property being at the end of the terrace, the proposed rear dormers would be visible from the highway to the front.
15. Due to the scale of the proposed dormers, whilst they would be broken up into one large dormer window and a smaller dormer, they would dominant the rear roof of No 81. It would also unbalance the existing uniformed roof form of the row of properties. The design of the dormers, with a slightly sloping pitch, would be at odds with the pitch of the gable end of the dwelling, resulting in an uncomfortable juxtaposition. The window design of the dormer windows would not be the same style as the windows in the existing house, which would further emphasise the inappropriate design of the proposed dormer windows.
16. I agree with the Council that the design of the first floor side extension above the garage would be acceptable, due to the set back from the façade and the set down from the main ridge. Nevertheless, due to the design and scale of the proposed rear dormers, the proposal would harm the character and appearance of the host dwelling and the surrounding area. It would be contrary to Policy PG3 of the BDP, saved Paragraphs 3.14C-D of the UDP and Principle 1 of the Extending Your Home SPD which all seek to ensure that proposals should have regard to the local character of an area. It would also conflict with specific guidance within the SPD in relation to dormer windows. It would also conflict with the principles within Chapter 12 of the Framework which seek good design sympathetic to the local area.

Other Matters

17. I concur with the Council that the single storey forward extensions with canopy, the ground floor bay window to the front and the rooflights would all be acceptable in terms of their design and scale and that they would accord with the relevant planning policies. However, they are not severable from the rest of the proposed development, and so I cannot issue a split decision.
18. The appellant has drawn my attention to a similar extension on Lambeth Road, but no further details have been provided. Nevertheless, the circumstances in each proposal are likely to be different, and in any event the fact that apparently similar development has been granted permission is not a reason,

on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

19. Finally, the appellant has also expressed concerns regarding a lack of communication with the Council during the application process, and the extended length of time taken to make the decision. Whilst this must have caused the appellant some distress, this does not materially affect my consideration of the planning merits of the appeal proposal.

Conclusion

20. The development conflicts with the development plan as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR