



Appeal Decision

Site visit made on 22 November 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 DECEMBER 2022

Appeal A Ref: APP/P4605/W/22/3301547

11 Cambrai Drive, Birmingham B28 9AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Ms Ajaib Azam against the decision of Birmingham City Council.
 - The application Ref 2022/03778/PA, dated 8 May 2022, was refused by notice dated 14 June 2022.
 - The development proposed is as a 'single storey 6m kitchen extension not attached to the side extension'.
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Appeal B Ref: APP/P4605/W/22/3304179

11 Cambrai Drive, Birmingham B28 9AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Ms Ajaib Azam against the decision of Birmingham City Council.
 - The application Ref 2022/05074/PA, dated 22 June 2022, was refused by notice dated 29 July 2022.
 - The development proposed is as a 'single storey 5.5m kitchen extension not attached to the side extension'.
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Decision

1. Appeal A is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the GPDO, for a single storey 6m kitchen extension not attached to the side extension, at 11 Cambrai Drive, Birmingham B28 9AB, in accordance with the application Ref 2022/03778/PA, dated 8 May 2022, and the details submitted with it including Drawings 'Permitted Kitchen Extension Plan', dated 18/2/2022 and 'Permitted Kitchen Extension Elevations' dated 17/2/2022, pursuant to Article 3(1) and Schedule 2, Part 1, Paragraph A.4 (2).
2. Appeal B is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the GPDO, for a single storey 6m kitchen extension not attached to the side extension, at 11 Cambrai Drive, Birmingham B28 9AB, in accordance with the application Ref 2022/03778/PA, dated 8 May 2022, and the details submitted with it including Drawings 'Permitted Kitchen Extension Plan', dated 22/6/2022 and 'Permitted Kitchen Extension Elevations' dated 22/6/2022, pursuant to Article 3(1) and Schedule 2, Part 1, Paragraph A.4 (2).

Preliminary Matters

3. As set out above there are two appeals on this site. They differ in that the proposal subject to appeal B reduced the length of the extension from 6m to 5.5m. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two proposals together, except where otherwise indicated.
4. Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), grant planning permission for the enlargement of a dwellinghouse subject to limitations and conditions. Paragraph A.4 (7) of Class A requires that, where any owner or occupier of any adjoining premises objects to a larger rear extension, prior approval is required with regard to the impact of the proposed development on the amenity of any adjoining premises. In both of these cases, objections were received so prior approval is required.
5. In its decisions, the Council has referred to Policy PG3 of the Birmingham Development Plan 2031 (adopted 2017) (BDP) and Policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document (adopted 2021) (DPD) as well as the National Planning Policy Framework (the Framework). However, the principle of development is established by the GPDO. I have had regard to the policies of the development plan and the Framework only in so far as they are a material consideration relevant to the prior approval matters and they assist in assessing the impact of the proposed extension on the amenity of adjoining premises.

Main Issue

6. Taking the above into account, the main issue in Appeal A and Appeal B is the effect of the proposed development on the living conditions of the occupiers of adjoining premises, with particular regard to light and outlook.

Reasons

7. The appeal site comprises a two-storey semi-detached dwelling, adjoined to 15 Cambrai Drive, with 9 Cambrai Drive to the other side. There is a large car park for a non-residential development directly to the rear of the site. The site and the adjoining dwellings have reasonably good-sized gardens with fencing around the boundaries. The proposed extension would project 6m from the rear elevation in Appeal A and 5.5m in Appeal B. In both cases, it would be 3m to the eaves with a maximum height of 4m. The extension would be close to but not joined with the existing side extension.
8. The proposed extension would be well set off from the boundary with No 9 and would not have a significant impact in terms of their light or outlook. However, the proposed extension would adjoin the boundary with No 15, so it is the impact on this dwelling which is the main consideration.
9. No 15 has a single storey extension which projects approximately 2m from its rear elevation and across the full width of the dwelling. It adjoins the boundary with No 11 where the proposed extension would be located. As a result, the proposed extension, while being 6m in Appeal A and 5.5m in Appeal B, would only project approximately 4m and 3.5m respectively, beyond the neighbouring extension. Therefore, the impact would be significantly less than if No 15 did not have an extension.

10. Policy DM10 of the DPD specifies that development will need to ensure adequate outlook and daylight, in line with the approach of the '45 degree code'. This 'code' recommends that development does not cross a line taken at an angle of 45 degrees from the centre of the nearest neighbouring window. The nearest opening in the extension at No 15 consists of patio doors with windows either side, so the exact centre point from which the 45 degree line should be taken is debatable. Notwithstanding this, I acknowledge that the proposal would cross the 45 degree line in Appeal A. It would also cross it in appeal B, but to a lesser extent. This is a material consideration in my assessment of whether prior approval should be granted, but it is not, on its own, determinative.
11. In both appeals, the appellant has provided a Daylight & Sunlight evaluation report, which has been carried out in line with recommendations set out by the Building Research Establishment (BRE). The report concludes that following the construction of the proposed extension at No 11, the levels of daylight and sunlight received within habitable rooms at No 15 would remain acceptable and above the levels recommended by BRE. The level of overshadowing of the garden at No 15 would also be within BRE recommended levels. This would be the case for the proposal in both Appeal A and Appeal B. I have been presented with no evidence to contradict the Daylight & Sunlight evaluation report or its conclusion and it is a material consideration in my assessment.
12. The orientation of the site, with the proposed extension located to the northeast of the windows and garden space at No 15, would limit the extent of any overshadowing. In addition, there are windows and doors across the majority of the width of the existing rear extension at No 15, so there are plenty of sources of light into the dwelling.
13. The proposed extension in both appeals would be visible from No 15, but the existing boundary fence would screen the bottom section. The modest height means that neither proposed extension would be excessively overbearing or lead to a sense of enclosure at No 15. Consequently, the impact on outlook would not be significant in either Appeal A or Appeal B.
14. Taking all of the above into account, I conclude that the development proposed in both Appeal A and Appeal B would not result in unacceptable harm to the living conditions of the occupiers of adjoining premises. Notwithstanding the failure to meet the '45 degree code', the proposal in both appeals would maintain adequate outlook and light for No 15. Consequently, insofar as they are a material consideration, both proposals would not be contrary to the general amenity protection aims of Policy PG3 of the BDP and Policies DM2 and DM10 DPD.

Other Matters

15. The appellant has referred to other dwellings in the area which have extensions of a similar size, as well as to other appeal decisions. However, I have assessed the proposal before me, in Appeal A and Appeal B, on their own site specific circumstances.

Conditions

16. No conditions, beyond those set out in the GPDO, have been suggested. I do not consider that any are necessary in this case.

Conclusion

17. For the reasons given, I conclude that both Appeal A and Appeal B should be allowed, and prior approval should be granted.

Helen Davies

INSPECTOR