

Appeal Decision

Site visit made on 9 March 2023

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30th March 2023

Appeal Ref: APP/P4605/D/23/3314746
43 Lonsdale Road, Birmingham, B17 9QX

- 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 Alex Elphinston against the decision of Birmingham City Council.
 - The application Ref 2022/05443/PA, dated 7 July 2022, was refused by notice dated 28 October 2022.
 - The development proposed is the erection of a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey rear extension at 43 Lonsdale Road, Birmingham, B17 9QX in accordance with the terms of the application Ref 2022/05443/PA, dated 7 July 2022, subject to the conditions set out in the attached Schedule to this decision.

Main issue

2. The main issue is the effect of the proposed development on the living conditions of the residents of 45 Lonsdale Road (No 45) with specific reference to light and outlook.

Reasons

3. The appeal property is a terraced dwelling with extant two-storey and single-storey protrusions at the rear. The appellant intends to demolish the single storey element, which would be replaced by a single-storey extension. This, however, would be longer and wider than the existing, wrapping around the two-storey protrusion. I saw that several neighbouring properties had been extended at the rear.
4. Development would be brought closer to the common boundary with No 45, which is marked by a solid timber fence roughly 2m high. The Council acknowledges the presence of the fence but points out that the eaves of the proposed extension would be higher by around 0.7m. In the Council's view, having regard to the application of its 45⁰ code¹, the extension would harm the outlook and level of daylight currently enjoyed by the neighbouring residents.

¹ As set out and explained in the Birmingham Design Guide Supplementary Planning Document 2022 (SPD) & Policy DM10 of Development Management in Birmingham Development Plan Document 2021 (DPD).

5. A conservatory has been added to the rear of No 45, which extends outwards and sideways towards the fence. The side of the conservatory facing the appeal property contains glazing, but the outlook is extremely limited given the presence of the fence and the conservatory's closeness to it.
6. No 45's original ground floor glazed openings facing the well formed by the conservatory and No 45's rear elevation have very limited outlook given the presence of the fence and conservatory respectively. Light to these windows is restricted due to the presence of the surrounding, enclosing two-storey development and the boundary fence. It seems to me that the original development, as built, would not comply with the application of the 45⁰ code, and the Council appears to accept this to be the case.
7. Having regard to these factors, and that the proposed extension's eaves would be sited away from the fence by almost a metre, the proposal would not, to my mind, make matters materially worse for No 45's residents, and would not prove harmful. Although not decisive in my considerations I note that No 45's residents were consulted on the proposals but did not object.
8. I therefore conclude that the proposal, if built, would not harm the residents of No 45 by reason of loss of daylight or outlook. Accordingly, no conflict arises with those provisions of policy PG3 of the Birmingham Development Plan or DPD policies DM2 and DM10 directed to place making and protecting the amenities of residents from any harmful effects of new development.

Conditions

9. In the interests of visual amenity, I shall impose the Council's suggested condition in respect of external materials.
10. It is also necessary, in the interests of certainty, that the development shall be carried out in accordance with the approved plans.
11. The extension is designed with windows facing No 45. However, the boundary fence presents an effective barrier to prevent loss of privacy, and I do not therefore consider it necessary to require the windows concerned to be obscurely glazed. Although this aspect is mentioned in the officer report, the Council did not suggest a condition to this effect in its questionnaire response.

Other matters

12. I have noted the references to the *National Planning Policy Framework*, and have taken those into account, but no other matter raised is of such strength or significance as to outweigh those considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1). The development hereby permitted shall begin not later than three years from the date of this decision.
- 2). The development hereby permitted shall be carried out in accordance with the following approved plans: 1SP/2075 Rev C; 1SP/2076 Rev A; 1SP/2077 Rev C; 1SP/2078 Rev B & 1SP/2079 Rev C.
- 3). The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing dwelling.