



Appeal Decision

Site visit made on 28 March 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2023

Appeal Ref: APP/P4605/D/22/3313092

101 Bleak Hill Road, Birmingham B23 7BS

- 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 Mr Hamzah Mukhtar against the decision of Birmingham City Council.
 - The application Ref 2022/07512/PA, dated 8 September 2022, was refused by notice dated 11 November 2022.
 - The development proposed is rear extension to incorporate existing outhouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

1. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis. While the policies of the development plan and the supplementary planning guidance referred to in the Council's decision notice have therefore not on their own been determinative, I have taken them into account as a material consideration, insofar as they are relevant to an assessment of the effect on amenity.
2. An amended plan has been provided as part of the appellant's appeal submission which shows an alternative proposal for an extension which steps away from the boundary with No 103 Bleak Hill Road. The appellant has confirmed that this amended plan 'was sent after the decision'. As formal consultation will not have been carried out with neighbouring properties on this amended plan, I am unable to accept it as this would deprive those who may be affected by the proposal from an opportunity to comment. In the circumstances, I have considered the appeal on the basis of the drawing which was before the Council when it made its decision.

Main Issue

3. The main issue is the effect of the proposed extension on the living conditions of occupiers of the neighbouring dwelling at No 103 Bleak Hill Road with particular regard to outlook and light.

Reasons

4. The modest depth of the existing single storey rear projection on the appeal dwelling, and the low height of the concrete fence panels which sit along the shared boundary with No 103 Bleak Hill Road, ensure that a suitably open aspect is provided to the rear of this neighbouring dwelling.
5. However, the height of the proposed extension together with the extent of its projection along the shared boundary with No 103, would have an enclosing and dominating impact when experienced from the rear facing patio windows and the patio area serving this neighbouring dwelling.
6. Due to its mass and very close proximity, the extension would also be likely to result in some additional shadowing to the nearest ground floor room served by the patio windows and the closest parts of the patio area serving No 103. Indeed, the appellant has acknowledged within their statement of case that they 'will need to bring in the wall by 103 due to the loss of light'. There is no detailed evidence before me to demonstrate that this loss of light would not be detrimental to the living conditions of occupiers of this neighbouring property.
7. In addition, the proposal would project beyond a 45 degree angle when measured from the mid-point of the patio windows serving No 103. This would be contrary to the provisions within the Council's Supplementary Planning Guidance in 'the 45° Code' (2006) and the Birmingham Design Guide (2022) and this further persuades me that the proposal would have an unacceptable effect on the quality of outlook and light experienced by occupiers of this neighbouring property.
8. I conclude that the development would have a significantly harmful effect on the living conditions of occupiers of the neighbouring dwelling at No 103 Bleak Hill Road with particular regard to outlook and light.
9. The proposal would also be contrary to the local context and neighbouring amenity requirements of Policy PG3 of the Birmingham Development Plan (2017), Policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document (2021) and the Council's Supplementary Planning Guidance on '45 Degree Code for House Extensions' and the Birmingham Design Guide (2022) and this is also relevant to my findings that the proposal would be unacceptable.

Other Matters

10. The appellant contends that the proposal would not affect neighbouring properties on Crowther Road. Even so, this does not overcome the harm identified to the living conditions of occupiers of No 103 Bleak Hill Road.

Conclusion

11. For the above reasons, the appeal is dismissed.

M Russell

INSPECTOR