



Appeal Decision

Site visit made on 9 May 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal Ref: APP/P4605/D/22/3308139

23 Weatheroak Road, Sparkhill, Birmingham B11 4RE

- 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 Mushtaq Ahmed against the decision of Birmingham City Council.
 - The application Ref 2022/02145/PA, dated 10 March 2022, was refused by notice dated 21 September 2022.
 - The development proposed is erection of first floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal upon the living conditions of the occupiers of 25 Weatheroak Road with regard to outlook and light levels.

Reasons

3. The appeal site is a mid-terraced property with a two storey wing and a single storey extension to the rear. Planning permission is sought for the erection of a first floor extension above the existing single storey rear extension.
4. The proximity of the proposed extension to the rear elevation of No 25 Weatheroak Road would reduce the openness experienced at this location. Combined with the bulk and height of the proposed extension, this would create an imposing feature that would change the outlook experienced from the rear windows of this property. Consequently, the proposed extension would appear overbearing and dominant from this location, significantly altering the outlook of occupiers such that it would impede their enjoyment of these rooms, making them less pleasant to use.
5. Additionally, the extension, by virtue of its bulk and depth and proximity to No 25, would have overshadowing effects which would reduce the amount of daylight to the rear ground and first floor windows. Consequently, the proposed extension would make these rooms a dark and unpleasant space in which to spend time, to the detriment of the living conditions of the occupants of this property. Based on the information before me and my observations on site the proposed extension would appear to breach the 45 degree code to these windows.
6. I note the appellant's comments that there is already a breach to the 45 degree code to the windows to No 25, and that thus it should not be applicable to this proposal. Based on the information before me the existing rear wing and

single storey extension appear to breach the 45 degree code to the rear windows to No 25, and at my site visit I observed that this appeared to restrict light levels to and outlook from these windows. Nonetheless, the increased height and bulk of the proposed extension would result in further restrictions to levels of daylight to and outlook from these windows which would be more harmful to the living conditions of the occupiers of this property. Furthermore, I have not been presented with any compelling evidence that the 45 degree code, as set down in the Birmingham Design Guide Supplementary Planning Document (2022) (BDG), is not applicable to this proposal.

7. My attention has also been drawn to an existing extension to No 21, which, it is stated, projects close to the proposed extension. The full details of this extension and the circumstances in which it was erected have not been provided to me. Nonetheless, at my site visit I observed that this extension did not project as deep as the appeal proposal. Thus, it does not appear to be directly comparable, and does not provide a justification for the appeal proposal, which in any case must be considered on its individual merits
8. For the above reasons the proposal would result in harm to the living conditions of the occupiers of No 25 through loss of light and outlook to the rear ground and first floor windows. I therefore find conflict with the guidance set down in the BDG and Policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document (2021) which seek to ensure that development does not result in unacceptable adverse impacts on the amenity of neighbours and ensures adequate outlook and daylight to dwellings, in line with the approach of the 45 degree code. I also find conflict with paragraph 130 of the National Planning Policy Framework, which requires that places are designed with a high standard of amenity for existing users.
9. Whilst referenced by the Council in the reason for refusal I find no conflict with those aims of Policy PG3 of the Birmingham Development Plan (2017) which seek to ensure that development is of a high design quality contributing to a strong sense of place.

Other Matters

10. I note the appellant's concern regarding the Council's decision-making process. However, that is not a matter for my consideration in the context of this appeal decision.

Conclusion

11. I find that the proposal conflicts with the development plan. No material considerations have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR