



Appeal Decision

Site visit made on 4 April 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/P4605/W/22/3309884

102 Flat, High Street, Erdington, Birmingham B23 6RS

- 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 Woodroffe against the decision of Birmingham City Council.
 - The application Ref 2022/05355/PA, dated 4 July 2022, was refused by notice dated 15 September 2022.
 - The development proposed is described as "conversion of existing 2bed second floor apartment to 2no 1bed apartments, incorporating small extension to the rear and creation of private roof terrace."
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - The effect of the proposed development on the living conditions of the occupiers of No. 104 High Street with regards to outlook and light;
 - Whether the proposed development would provide satisfactory living conditions for the future occupiers, with particular regard to privacy, outlook and safety; and
 - The effect of the proposed development on the character and appearance of the host building and area.

Reasons

Living Conditions

3. No-s 102 – 106 High Street form part of a short terrace of three storey buildings. The rear elevations of the buildings have been altered over time with No's 102 and 106 having projecting rear extensions at ground, first and second floor. No 104, located in between them, has no such extensions at first and second floor.
4. The Council seeks to avoid harm to neighbouring living conditions by amongst other things applying a 45-degree line taken from the centre of the nearest window. The submissions acknowledge that the existing building currently breaches this, being 67 degrees.
5. The proposed extension would increase the bulk and mass of built form to the rear of No 102 in close proximity to the shared boundary with No 104. This

would exacerbate the dominating relationship of the host building in the closest windows serving No 104. Given the current juxtaposition of the dwellings at Nos 102 and 104 and their relative orientation, the depth of the proposed extension would lead to a material loss of light experienced by occupiers of No 104 when compared with the existing situation.

6. I conclude, the development would result in significant harm to the living conditions of occupiers of No 104 with particular regard to outlook and light. This would be contrary to Policy PG3 of the Birmingham Development Plan – Part of Birmingham’s Local Plan (LP) (2017), Policy DM2 of the Birmingham Plan 2031 – Development Plan Document (2021) (DPD) and the guidance contained within the Birmingham Design Guide (2022) (BDG) which seek, amongst other things, to ensure that developments do not result in unacceptable adverse impact on the amenity of occupiers and neighbours. The proposal would be contrary to the advice set out in paragraph 130 of the National Planning Policy Framework (Framework) that seeks high standards of amenity for existing and future users.

Living Conditions of Future Occupiers

7. The proposed development would introduce an extension to the second floor of No 102. Apartment 1 would be located part in the original building and within the extension. Existing windows in the side elevation would be retained as windows for the proposed bedroom. The bedroom window would look towards a window in the side elevation of No 106 and be separated by approximately 5.1 metres. The existing window which currently serves a 2-bedroom flat would not be altered. As such, whilst the window of No 106 would be in close proximity, the effect on privacy and outlook would not be greatly different than is existing.
8. Some mutual overlooking is inevitable and tolerable in residential areas. The layout of the proposed flats would be different to the existing layout. Nonetheless, having regard to the residential use at the site and that the windows are existing, the proposed development would have a neutral impact on the living conditions of future occupiers with regards to outlook and light.
9. The Council are concerned regarding the location of the proposal accessed from an unlit alleyway with a lack of surveillance. I noted that the proposed access would be located relatively near to the entrance to the lane which is also used to provide a rear access to houses on nearby roads. The appellant has confirmed that the existing flat is already accessed via this lane. High Street, which the lane is accessed from is a busy road with vehicles and pedestrians regularly passing its entrance, thereby providing some natural surveillance. During my site visit I noted that the lane had lighting, was accessed via locked gates that the occupiers would have a key for and there were no alcoves along the lane.
10. I have had regard to the Council’s submission that it is their preference that flats have entrances on the front, however due to the existing configuration of the building, the ground floor shop has the sole access at the front, and the existing flat is accessed via the rear. Whilst there is an area of bins to the rear of the flat, this is also in a car park which would provide an element of natural surveillance. I consider that, if the appeal were to be successful, that a condition could be imposed requiring external lighting to be installed near the bin area which would improve the feeling of safety and security.

11. The proposed development would therefore have an acceptable effect upon the living conditions of future occupiers. This would comply with LP Policy PG3, DPD Policy DM2 and the guidance contained within the BDG which seek, amongst other things, to ensure that developments are of a high design quality and do not have an unacceptable adverse impact on the amenity of occupiers. The proposal would comply with the advice set out in paragraph 130 of the Framework that seeks high standards of amenity for existing and future users.

Character and Appearance

12. The appeal site is located in a commercial area of Erdington where most buildings have retail uses to the ground floor and retail/residential uses above. The design of buildings varies greatly and has developed over time with traditional red brick building located to the south-west of the appeal site and a more contemporary shopping centre located to the north-east.
13. The appeal building forms part of a terrace of three similarly designed buildings with a flat roof and finished with pebble dash detailing to the first and second floor. All three buildings have the same rectangle of windows at first floor, and this is replicated on No's 104 and 106 High Street at second floor level. The appeal building is unique in that it has a recessed balcony area. As such, the fenestration is different with a glazed door to allow access on to the balcony and a single window. Clear views of the building and its balcony area are available when travelling along New Street towards the site.
14. The Council are concerned that the proposed development would introduce fenestration that would be at odds with the existing windows. From reviewing the existing plans, it would appear that there would be no alteration to the window arrangement, which originally differed from the other windows in the building. As such, there appears to be a like for like replacement of the windows on the front elevation of the building. The proposed development would therefore preserve the character and appearance of the host building and wider area.
15. As such, it would comply with LP Policy PG3 and the guidance contained within the BDG which seek to ensure that development reinforces a positive sense of place and local distinctiveness. The proposal would also comply with paragraph 130 of the Framework which seek good design sympathetic to local character and development that responds positively to the surrounding context.

Conclusion

16. For the above reasons, there are no relevant material considerations, including the approach of the Framework, which would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR