



Appeal Decision

Site visit made on 26 October 2023

by D Cleary MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/P4605/D/23/3322795

92 Dyas Avenue, Birmingham B42 1HF

- 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 Mrs Bavita Bains against the decision of Birmingham City Council.
 - The application Ref: 2022/08779/PA, dated 24 November 2022, was refused by notice dated 15 March 2023.
 - The development proposed is described as the construction of a basement and single storey rear and side extensions, and installation of decking to rear.
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Decision

1. The appeal is allowed and planning permission granted for the construction of a basement and single storey rear and side extensions, and installation of decking to rear, at 92 Dyas Avenue, Birmingham B42 1HF in accordance with the terms of the application, Ref: 2022/08779/PA, dated 24 November 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be completed in accordance with the following approved plans referenced;
 - 001-Rev B Existing and Proposed Floor Plans
 - 002-Rev A Existing and Proposed Elevations
 - 003-Rev B Existing and Proposed Cross Sections
 - 004-Rev B Existing and Proposed Roof Plan
 - 005-Rev A Location Plans
 - Drainage Plan (prepared by RDM Construction)
 - Site location Plan (dated 22/11/22)
 - 2) Prior to the application of the render finish, details of its texture and colour finish shall be submitted to the Local Planning Authority for approval. The render shall be applied in accordance with the approved details and shall thereafter be retained.

Procedural Matters

2. The description of development in the banner heading and formal decision above has been taken from the Council's decision notice. Neither of the main

parties has provided written confirmation that a revised description of development has been agreed. However, I have used the one given on the decision notice as it is more succinct, albeit I have removed wording that is not an act of development.

3. On my site visit I observed that the development has been carried out and was substantially complete, with the exception of external rendering. The submitted plans reflect the development which has taken place and I have considered the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the host dwelling and wider area; and,
 - b) the living conditions of the occupiers of 94 Dyas Avenue with particular regard to outlook and light.

Reasons

Character and appearance

5. The appeal dwelling is a two-storey semi-detached property which is located within a predominantly residential area. The dwelling is of predominantly brick and tile construction. The surrounding streetscene comprises similar two-storey semi-detached properties with hipped roofs. Along Dyas Avenue, the semi-detached pairings are evenly spaced with shared driveways between, leading to rear garages and/or outbuildings. There is a general degree of uniformity in the streetscene which is a positive characteristic of the area.
6. To the rear of the appeal site is the Tame Valley Canal which runs parallel to Dyas Avenue. Within the appeal site, much of the rear garden is at a significantly lower land level to the dwelling. While the canal, beyond the rear boundary, is set within a cutting at a much lower land level. The embankment of the cutting is significantly landscaped with mature vegetation.
7. A large number of properties along this side of Dyas Avenue have been extended to the rear. These extensions are of varying design and include extensions which have been attached to the previously detached garages. Due to land level changes, a number of gardens are split level and include terraced areas. No90 Dyas Avenue (No90), which is the appeal sites semi-detached pairing, has a single-storey, flat roof rear extension which links to the garage. Cumulatively that extension and garage has resulted in a large "L-shaped" rear projection.
8. The appeal extension is sited to the rear and is provided at ground floor and lower ground floor level. At ground floor level, the extension is "L-shaped", and occupies the full width of the plot, projecting to the rear by a significant distance along the shared boundary with No94 Dyas Avenue (No94). The extension, and floorspace created, is comparatively large in the context of the size of the original dwelling.
9. The footprint of the ground floor extension is broadly a mirror image to the extensions at No90. The extension projects by a similar distance both along the

shared boundary and the opposite side boundary. The height and roof design of the extension is also similar to that at No90. At ground floor level the extension reflects the scale and extent of development to the rear of its semi-detached pairing. In addition, the extension does not project by any significant degree beyond the rear building line of other extensions and garages along this part of Dyas Avenue. The coverage of the extension is consistent with the pattern of development in the area.

10. Part of the lower ground level extension is positioned immediately below an external terrace, and is largely subterranean. Only a shallow depth of facing elevation is exposed to the garden. This part of the extension is discretely sited, appearing as a terrace, similar to other raised terraces in the surrounding area. Therefore, this part of the extension does not significantly add any perceived mass of the extension or visually compete with the dwelling.
11. The wing of the extension which is sited along the boundary with No94 is provided over two levels. As identified above, its overall projection is similar to other development in the area. This part of the extension has a two-storey appearance, although this is only apparent from the rear garden of the appeal site and those adjoining private spaces. Its overall height is comparative to the numerous garages and extensions to the rear of these properties. There are also examples in the immediate area of two storey rear outbuildings¹ which are visible from the appeal site. This part of the extension is similar in height, width and design to those nearby developments.
12. Extensive rear development is characteristic of the area. Due to the land level changes these can appear large from the rear. Nonetheless, these have been provided with the host dwelling remaining dominant. In this context, the development similarly does not dominate the host dwelling and reflects the varied character of rear projections along Dyas Avenue.
13. A small part of the extension is visible from Dyas Avenue beyond the driveway. The front elevation broadly aligns with the detached garage of No94, and appears as a single storey flat-roof construction. Its visible scale, rear siting and roof design is not prominent, with the host dwelling remaining dominant. From the rear, the significant difference in land levels between the appeal site and the Tame Valley Canal, along with the extensive landscaping ensures that there are no prominent views of the site from the canal towpath. From private spaces, the extension appears in the context of other rear extensions and garages of similar scale. Therefore, the extension does not appear incongruous in the streetscene or from wider views of the site.
14. While I do find that the extension is large in comparison to the scale of the original dwelling, it is similar in scale and site coverage to other development on Dyas Avenue, including No90. The extension therefore reflects the overall pattern of development in the area.
15. For the above reasons, the development does not have a harmful effect on the character and appearance of the host dwelling and wider area. Therefore, the proposed development accords with Policy PG3 of the Birmingham Development Plan (2017) (the DP), the advice of the Birmingham Design Guide

¹ At 82 & 80 Dyas Avenue

SPD (2022) (the SPD) and that of the Framework. Together these seek to achieve high quality design and expect the design of development to reinforce a positive sense of place, local distinctiveness, and to respond to local context.

16. Policy DM2 of the Development Management in Birmingham Development Plan Document 2021 (the DPD) deals with living conditions and is not relevant to this main issue.
17. I have also had regard to the 3B's (Beeches, Booth and Barr) Neighbourhood Plan 2020-2031 (the NP) which forms part of the Development Plan. The development accords with Policy NPP2 of the NP which, amongst other things, requires development to reinforce residential character.

Living conditions

18. The extension is sited along the shared boundary with No94. To the rear of No94 is a single storey rear extension with rear facing habitable room window. This is the nearest rear facing opening to the development. Between that window and the appeal development is the detached garage of No94.
19. The existing garage is sited very close to the window and considerably impinges upon the 45degree standard². The extension has a slightly greater height and depth than the garage. Due to the orientation of the site, overshadowing arising from the development would be limited to the morning and over the garage roof. Given the modest differences in height, and the presence of the intervening garage, any loss of light would be minimal
20. While a small part of the development may be visible from this window, it would be predominantly obscured by the existing garage. The close proximity of this garage is such that it would remain the dominant feature in the view from the window. Therefore, I do not consider that there has been a significant change in outlook to adversely affect living conditions in this regard.
21. For the above reasons the development does not have an adverse effect on the living conditions of No94 Dyas Avenue with particular regard to light and outlook. Therefore, the development accords with Policies DM2 and DM10 of the DPD, and guidance contained within the Framework. Amongst other things, these expect development to not result in an unacceptable adverse impact on living conditions in terms of light and outlook.
22. Policy PG3 of the DP relates to design matters and is not relevant to the second main issue. Again, I have had regard to the NP, however there are no policies that are directly relevant to the second main issue.

Other Matters

23. I acknowledge the comments raised by third parties with regard to the scale of the development; the delivery of a Garden Suburb; disturbance during construction; the effect on living conditions of No90 with particular regard to loss of light; and the effect on parking.
24. As confirmed above, I find that the scale of the development to be acceptable. The scheme has been carried out without any detrimental effect on existing

² As described by "The 45° Code" SPD

landscaping and, therefore, I do not find the development to be contrary to the NP with regard to the delivery of a Garden Suburb. The development is small scale and at an advanced stage and is substantially complete, any further disturbance during construction would be short lived. The manner in which disturbance has occurred previously is not a matter for me to comment.

25. With regard to the living conditions of No90, the Council did not raise concern with regard to the effect of the development on this property. In addition, the Council did not raise any concern with regard to parking issues. Given the scale, siting and design of the extension I have no reason to disagree with the Council's assessment of these matters.
26. The comments of the Ecology Officer are noted. These included a requirement for a protective buffer between the works area and the top of the canal bank during construction. The Canal & River Trust also raised comment, requesting further information on a number of points. Again, these concerns principally related to impacts of the development on adjacent land during construction. The works are substantially complete and therefore the effects of the development has already occurred.
27. The Council did not refuse the development on the grounds of insufficient information raised by consultees. Furthermore, they have not identified any additional conditions as being necessary. Therefore, there is nothing before me to suggest these matters require further consideration.

Conditions

28. Because the development is substantially complete it is not necessary to attach a standard time limit condition. I have imposed a standard condition to require the development to be completed in accordance with the submitted plans, which is necessary to define the terms of the permission. A condition requiring details of the final texture and colour finish of the proposed render finish is necessary in the interest of the character and appearance of building and area.

Conclusion

29. For the above reasons the appeal is allowed.

D Cleary

INSPECTOR