



Appeal Decision

Site visit made on 26 October 2023

by D Cleary MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28.11.2023

Appeal Ref: APP/P4605/D/23/3327608
163 Bankes Road, Birmingham B10 9PN

- 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 Raja Iftikhar Taj Khan against the decision of Birmingham City Council.
 - The application Ref: 2023/01953/PA, dated 22 March 2023, was refused by notice dated 26 May 2023.
 - The development proposed is described as a single storey side and rear extension.
-

Decision

1. The appeal is allowed and planning permission granted for the erection of a single storey side and rear extension at 163 Bankes Road, Birmingham B10 9PN in accordance with the terms of the application, Ref: 2023/01953/PA, dated 22 March 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans referenced;
C792/001 – Location Plan;
C792/002 – Site-Block Plan;
C792/003 – Existing Floor Plan and Elevations; and,
C792/004 Rev A – Proposed Floor Plan and Elevations.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. 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 161 Bankes Road with particular regard to outlook and light.

Reasons

Character and appearance

3. The appeal dwelling is a two-storey end terraced property of traditional red brick and tile construction. The dwelling has a two-storey outrigger to the rear, with further single storey projections extending beyond this.
4. The surrounding area is predominantly residential, characterised by close knit terraced properties, with deep plots. The dwellings are uniform in appearance and include pairs of two-storey rear outriggers. A prevailing characteristic of dwellings in the area includes long, narrow single storey rear outriggers, with single pitched roofs, which project deep into their plots.
5. The adjacent attached property, No165 Bankes Road, has a single-storey rear projection which extends by some considerable length along the shared boundary with the appeal site. There is a break in the terrace between the appeal site and No161 which represents an anomaly in the building line. This results in a greater spacing between the properties than the prevailing pattern of development.
6. The scheme proposes the demolition of the existing rear single-storey projections and the construction of a larger single-storey extension. The extension would have a single pitched roof. The extension would partially project beyond the side elevation of the two-storey outrigger. The rear projection is of some considerable length, however the overall length would be similar to No165.
7. The appeal dwelling and No165 share a two-storey rear outrigger, and the extension would assist in creating visual balance between the two properties. Long single-storey rear extensions are prevalent within the area. The extension would continue this established characteristic and, as such, would reflect the pattern of development in the area. Given the depth of the plot and the pattern of development in the area, I consider that the single-storey extension would not result in a dominant or discordant extension to the host dwelling.
8. The extension would be wider than the two-storey outrigger. However, as the dwelling has a wider plot than other properties, the proximity of the extension to the site boundary would be comparative to surrounding developments. The width of the extension can therefore be accommodated in the plot while maintaining sufficient spacing with No161.
9. Visibility of the extension from Bankes Road would be limited to glimpsed views through the break in built frontage. The rear siting and modest height of the extension would mean that it would appear visually subservient to the host dwelling. Therefore, the extension would have a limited effect on the character and appearance of the streetscene. From private gardens, the extension would be seen in the context of other developments of similar scale and projection, and would not appear out of character with the area.
10. For the above reasons, the proposed development would not have a harmful effect on the character and appearance of the host dwelling or the wider area. Therefore, the proposed development would be in accordance with Policy PG3 of the Birmingham Development Plan (2017) (the DP), the advice of the

Birmingham Design Guide SPD (2022) (the SPD) and that of the Framework. Together, amongst other things, these seek to achieve high quality design which reinforce a positive sense of place, local distinctiveness, and responds to local context.

11. 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.

Living Conditions

12. The Council applies a horizontal 45° standard from the nearest front or rear facing habitable room window¹. A ground floor habitable room window is located to the rear of No161. Given the existing close relationship there is already a breach of the 45° code as acknowledged by the Council. The SPD advises that *"In the case of an older terraced property, where the original building has a rear 'wing' section which already breaks the Code, it is not normally acceptable to build an extension which fills the gap to the side of the wing because it will nearly always break the Code"*.
13. A tall solid timber fence is positioned along the shared boundary. The fence is marginally lower than the top of the rear opening. The single storey extension would have an eaves height which projects above the height of the fence. However, the degree of projection above the fence would be modest. In addition, the extent of side projection towards No161 would also be small and would be set in from the site boundary. As the appeal site and No161 are not attached the extension would not "fill the gap" between the properties. While the proposals would bring development slightly closer to No161, its height, siting and context is such that the extent of additional built form projecting above the existing fence line would be modest, and would not adversely affect the outlook from the rear window.
14. With regard to light, the orientation of the properties is such that the appeal site sits approximately east of No161. The existing two storey outrigger is likely to cast a shadow over the rear window during early daylight hours. As the extension would sit much lower than the two-storey outrigger, any further reduction of daylight or sunlight arising from the development would be minimal. I have already concluded that the extension would result in an acceptable projection above the existing fence line by reason of its limited height and proximity to the boundary. Given these factors, I do not consider that the infringement of the 45° standard would result in a material loss of light to No161.
15. For these reasons, the development would not have an unacceptable effect on the living conditions of the occupants of No161 through loss of light or 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. Policy PG3 of the DP relates to design matters and is not relevant to the second main issue.

¹ Birmingham City Council The 45° Code Supplementary Planning Document (2006)

Other Matters

16. I acknowledge the concerns raised by occupiers of No161 with regard to the effect on their living conditions with particular regard to loss of light; outlook; privacy and overlooking; and the manner in which the site would be used.
17. I have concluded above that the effect of the development on No161 with regard to light and outlook would be acceptable. With regard to privacy and overlooking, the Council have assessed the relationship and considered the relationship to be acceptable in this regard. A close board fence defines the boundary between the two properties which is of sufficient height to provide appropriate screening between side facing windows. I therefore have no reason to disagree with the Council's assessment on this point.
18. I have considered the effects of the appeal as an extension to a dwelling in the context of the Development Plan, as I am required to do. Disturbance or concerns arising from the use of the dwelling as a House in Multiple Occupation is not a matter for me to consider.

Conditions

19. I have imposed standard conditions relating to the commencement of development, and to require compliance with the submitted plans for certainty. A condition requiring the development to be carried out in materials matching those of the existing building is necessary in the interest of the character and appearance of the area.

Conclusion

20. For the above reasons the appeal is allowed.

D Cleary

INSPECTOR