



Appeal Decision

Site visit made on 15 November 2023 by T Bennett BA (Hons) MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2024

Appeal Ref: APP/P4605/D/23/3326436

4 Dorset Road, Edgbaston, Birmingham B17 8EN

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Ejaz Mahmood against the decision of Birmingham City Council.
 - The application Ref 2023/01695/PA, dated 13 March 2023, was refused by notice dated 10 May 2023.
 - The development proposed is for a rear single storey extension extending to 6 metres beyond existing external wall.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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) (GPDO) for a rear single storey extension extending to 6 metres beyond existing external wall, at 4 Dorset Road, Edgbaston, Birmingham B17 8EN in accordance with the application ref. 2023/01695/PA, made on 13 March 2023, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2) of the GPDO.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters and Main Issue

3. The appeal property is a mid-terrace but the application form only references one adjoining. Nevertheless, I can see that the Council did notify all adjoining premises, this being No.2 and No.6 Dorset Road. The description of development on the decision notice included the height and depth of the proposal. The eaves height differs to the submitted plans. I have therefore taken the description from the application form which best identifies the development to which the appeal relates and as it was originally proposed.
4. Under the aforementioned legislative provisions, a planning permission is granted for the enlargement of a dwelling in the manner proposed subject to the satisfaction of expressed limitations, restrictions and conditions. One such, for the purposes of the appeal, requires an assessment to be made as to the effect of a given scheme on the amenity of any adjoining premises, considering any representations received. This has informed the main issue of the appeal

which is the effect of the proposal on the living conditions of the occupants of adjoining properties with particular regard to outlook and light.

Reasons for the Recommendation

5. In relation to No.2 Dorset Road, the garden of the appeal property is separated from the garden of No.2 by a timber fence and mature hedging at an oblique angle, with an open aspect to the northwest. The proposed extension would be visible from ground floor rear windows at No.2. However, owing to the proposal's form with a mono-pitched roof design that slopes away from No.2, the limited depth compared with the extensive shared boundary as a whole, and the set back therefrom, the principal outlook from No.2 down its long rear garden would remain. Thus, the proposal would not have an adverse impact on the outlook from either the internal or external areas of No.2.
6. As the proposal would cross a 45-degree line when taken from the nearest ground floor rear window at No.2, it would conflict with guidance set out the Birmingham Design Guide (2022). However, the guide states exceptions can be considered on a case by case basis. There is already overshadowing of the garden closest to the rear of the property for much of the day. Given the proposal's scale, single-storey design, mono-pitched roof and the set back of the side elevation from the boundary with No.2, the proposal would not lead to a substantive change in light levels available to the rear window of No.2 and the adjacent garden space.
7. The neighbouring property at No.6 Dorset Road has a single storey rear extension of a similar length to the proposal. Taking this into account, along with the form and siting of the proposed extension, there would be no adverse effect on the living conditions of the occupants at No.6.
8. The proposed development would therefore be acceptable in terms of its effect on the living conditions of neighbouring occupiers, with particular regard to outlook and light. Insofar as they are material considerations relevant to the main issue of the case, the proposed development would consequently accord with the aims of Policy PG3 of the Birmingham Development Plan (2017) and Policies DM2 and Policy DM10 of the Development Management in Birmingham DPD (2021). Amongst other matters, these policies seek to ensure new development protects residential amenity.

Other Matter

9. Concerns raised with respect to the proposal not being in keeping with surrounding properties do not fall within the remit of this appeal. Unlike where an application for express planning permission has been sought, my considerations are limited to the provisions of the aforementioned legislation.

Conditions

10. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions in sections A.3 and A.4. This includes the requirement for the exterior materials to be similar to those used in the construction of the exterior of the existing dwellinghouse and that the development is carried out in accordance with the details and plans submitted. No further conditions are necessary.

Conclusion and Recommendation

11. The appeal scheme would, on the basis of the above, comply with the relevant provisions of the legislation under which it should be considered. For that reason, I recommend the appeal should be allowed.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is allowed in the circumstances set out above.

John Morrison

INSPECTOR