



Appeal Decision

Site visit made on 27 March 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2024

Appeal Ref: APP/P4605/W/23/3327331

202 Warwick Road, Springfield, Birmingham B11 2NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Iqbal Singh of the Eye Centre (Birmingham) Ltd against the decision of Birmingham City Council.
 - The application Ref is 2023/02505/PA, dated 17 April 2023.
 - The development proposed is described as: *The project consists of single-story side and rear extensions, as well as the installation of an external staircase. The property has two levels; the ground floor will be used for the company's eye centre, while the flat upstairs will be a one-bedroom flat. The existing flat currently has access from the shop area, but the owner wishes to install an external staircase in the back area to provide independent access for the flat.*
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It is unclear on the evidence whether or not the second floor of 202 Warwick Road is in residential use. It is not for me within my role in determining this appeal to reach a formal view on the lawfulness of any residential use or otherwise. However, on site I observed that the area appeared to be used as storage. Given such, I have therefore determined the appeal on the same basis as the Council. That is, for the erection of the side and rear extensions, installation of the external staircase and the change of use of the 1st and 2nd floors to a flat (Class C3).

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the property and surrounding area;
 - The effect of the proposal on the living conditions of the neighbouring occupiers at 200 Warwick Road, with particular regard to outlook and privacy; and,
 - Whether the proposal would create adequate living conditions for future occupiers, with particular regard to outlook, light, provision of private amenity space and safety.

Reasons

Character and appearance

4. 202 Warwick Road is a three-storey terraced property with a part two storey part single storey outrigger located to its rear. The ground floor of the property has a commercial use and this building forms part of a commercial row. The upper floor provides ancillary storage space for the ground floor commercial unit. There is a mixture of commercial and residential uses in the immediate vicinity.
5. The proposal would incorporate two staggered single storey extensions. One rear extension would replace an existing single storey extension. A set of external stairs with a walkway to access an upper floor flat would be located above one of the single storey extensions. In this position, visibility of the development from the public realm would be difficult due to its confinement to the rear of the building, neighbouring developments and limited access to the rear. Whilst single storey extensions to neighbouring properties of various styles are visible from the appeal site, open large external staircases are not a common feature. Nevertheless, the staircase would still be visible to several neighbouring properties within close proximity.
6. Although it would be designed with open stairs, the balustrade and large platform would create a relatively solid addition to the rear elevation. The staircase design is industrial in its appearance and consequently, it would be an incongruous addition to the property. As such, I find that the size and scale of the staircase would result in an alien feature to the host property.
7. For this reason, I therefore conclude that the proposal would be harmful to the character and appearance of the area and would be in conflict with Policy PG3 of the Birmingham Development Plan 2031 (DP) (adopted 2017) and the guidance found within the Birmingham Design Guide: Principles Document 2022 (SPD). This policy and the guidance within the SPD requires all developments to create a positive sense of place and local distinctiveness with designs which respond to site conditions and the local area context.

Living conditions of neighbouring occupiers

8. The proposed upper floor accommodation would be served by an external staircase. As existing, the rear of the appeal site is similar to that of the neighbouring property of 200 Warwick Road. Both incorporate a part two-storey part single storey outrigger which does not take up the full rear elevation of the property. The proposed rear extension with external staircase would infill a gap between the two-storey outrigger and the boundary of 200 Warwick Road. A habitable room window is located in the rear elevation of the neighbouring property. Sited in this position, this extension would have a projection similar to the full depth of the existing outrigger, along the boundary to the neighbouring property at close proximity at a large overall height for a development of this nature.
9. The Council has adopted a 45 Degree Code, as noted in City Note LW-4 of the Birmingham Design Guide: Healthy Living and Working Places City Manual 2022. Utilising this code, a 45-degree line is taken from the nearest primary habitable room window to the proposed development. This proposal would

break this 45 Degree Code. More decisively, I also find that the combination of the height, depth and proximity of the rear extension and external staircase to this window would create a narrow and tunnelled outlook, therefore creating unacceptable harm to the neighbouring property.

10. The proposed staircase and walkway at its proposed height above the existing boundary treatment would allow for its users to overlook into the private rear amenity space of 200 Warwick Road and its rear windows. I do note that some overlooking is experienced due to the side windows in the two-storey outrigger. This also allows for a direct view into the upper floor windows of each opposite outrigger. However, this is a shared experience by both the appeal property and its neighbour. The proposed staircase and walkway would be located much closer to the shared boundary which would cause direct and unacceptable overlooking into the ground floor rear windows and private amenity space of 200 Warwick Road.
11. Therefore, I find that the proposal would have an unacceptable harm to the living conditions of the neighbouring occupiers of 200 Warwick Road, with particular regard to outlook and privacy. Therefore, the proposal would be contrary to Policy DM2 of the Development Management in Birmingham Development Plan Document 2031 (DPD) (adopted 2021), Policy PG3 of the DP, the guidance found within the Birmingham Design Guide: Principles Document 2022 (SPD) and the guidance within the Birmingham Design Guide: Healthy Living and Working Places City Manual 2022. Collectively, these policies and guidance seek for development proposals to respond to site conditions, will need to be appropriate to its location and not result in unacceptable adverse impacts on neighbours, with particular regard had to visual privacy, overlooking and outlook.

Living conditions of future occupiers

12. The proposed first floor would incorporate a bathroom, kitchen, living room and dining room. The dining room would be sited between the living room and kitchen, separated by internal walls and doors. An access door to the external staircase would be located in the dining room. In this proposed configuration, the dining room would be a small space, which would not be served by any windows. As such, this would be a dark and cramped space, failing to provide adequate living conditions for future occupiers due to the lack of outlook and light offered.
13. City Note LW-13 found in the Birmingham Design Guide: Healthy Living and Working Places City Manual 2022 requires proposals for one-bedroom flats to incorporate 5m² of private amenity space. The two rear extensions would occupy much of the rear space of the appeal site. In addition, the provision of rear access stairs would utilise the area adjacent to these rear extensions. I do note that the staircase and walkway would allow for some space to be utilised beneath it and in front of it. However, this would be severely limited due to the width of the stairs, making passage beneath it difficult. Furthermore, due to the space needed to open the rear gate to access the proposed flat, usability of this space would be limited. As such, the proposal would fail to provide future occupiers with adequate and usable private amenity space.
14. To access the proposed flat via the external rear staircase, access would be provided through a shared alleyway to the side and rear of the property. Upon entry to and throughout the alleyway is an enclosed space of high walls and

fencing. This creates a dark and cramped space through which future occupiers would be required to pass. There is little natural surveillance of this space due to the high walls of adjacent properties. As such, this would be inhospitable and would not feel particularly safe.

15. For these reasons, I conclude that the proposal would fail to create adequate living conditions for future occupiers, with particular regard to outlook, light, provision of private amenity space and safety. As such, the proposal would not comply with Policies DM2 and DM10 of the DPD, Policy PG3 of the DP and the SPD. These policies and guidance require development to not result in unacceptable adverse impacts on the amenity of occupiers through appropriate outlook, light, access to high quality and usable amenity spaces and to design out crime.
16. I note that the Council have stated that the proposal would work against Policies TP28 and TP44 of the DP and Policy DM15 of the DPD. Upon assessment of these policies, I note that they are concerned with the location of development away from areas with flood risk, accessible to jobs, shops and services, parking and traffic management.

Other Matters

17. I note that several extensions and covered walkways have been constructed to the rear of properties in this immediate row. It is unclear whether or when these were granted permission and many of these examples do not set a positive design precedent in any event.
18. No objections were raised by Environmental Pollution Control, Transportation or West Midlands Police. However, the reasons given for such do not overcome the harm I have found in relation to the main issues raised above.

Conclusion

19. The proposal would conflict with the development plan read as a whole and the other considerations before me do not indicate that I should make a decision other than in accordance with the development plan.
20. For the reasons given above, I conclude that the appeal should be dismissed.

J Smith

INSPECTOR