



Appeal Decision

Site visit made on 22 April 2024

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15.05.2024

Appeal Ref: APP/P4605/D/24/3338178

10 Chesterwood Road, Birmingham B13 0QF

- 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 Kate Lynch against the decision of Birmingham City Council.
 - The application Ref 2023/05033/PA, dated 21 July 2023, was refused by notice dated 15 November 2023.
 - The development proposed is a single storey rear extension and first floor side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbours at 8 Chesterwood Road in respect of outlook and received light.

Reasons

3. The appeal building is a detached dwelling of distinctive design located in a residential area comprised of similar properties. The dwellings of 8, 10 and 12 Chesterwood Road have a staggered layout, with previous rear extensions, including a conservatory at the appeal site. The proposed rear extension would replace the conservatory. However, unlike the conservatory, the proposed extension would adjoin the garden boundary with 8 Chesterwood Road. The extension would affect the nearby ground floor bay window at 8 Chesterwood Road by breaking the 45 Degree Code as set out in the Birmingham Design Guide Supplementary Planning Document.
4. There will already be some loss of light and outlook to the ground floor bay window at 8 Chesterwood Road because it is set back as part of the staggered layout and there is a timber screen fence with some vegetation along shared boundary with the appeal site. The appellant has proposed including glazing above a 2-metre-high flank wall, and within the nearest part of the proposed flat roof to 8 Chesterwood Road, in order to try to mitigate any received loss of light or outlook from their bay window. Nevertheless, although there would be some mitigation regarding loss of light to the bay window than from a solid upper part of the structure, the proposed extension would result in undue enclosure and a significant increased loss of outlook for neighbours. That is because of the proposed height and proximity of the extension and its length along the shared boundary.

5. The appellant has submitted that a 2-metre-high brick wall could be built along the shared boundary with 8 Chesterwood Road under permitted development rights. However, the proposed extension would exceed that height and the proposed glazing would still adversely impact the outlook from the nearby ground floor bay window.
6. I find that the proposal would have a significant harmful effect on the living conditions of neighbours at 8 Chesterwood Road in respect of increased loss of outlook and light. The proposal would therefore conflict with Birmingham Development Plan policy PG3 which seeks to ensure that all new development demonstrates high design quality and policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document which seek to protect residential amenity. Policy DM10 indicates that separation distances between buildings should protect residents' outlook and ensure adequate levels of daylight. It would also conflict with the terms of the Birmingham Design Guide concerning residential amenity and with the objectives of the National Planning Policy Framework regarding good design.

Other Matters

7. The appellant has referred to several properties in Birmingham where the Council has granted permission where the appellant considers that the impact of a technical breach of the 45 Degree Code has been mitigated through use of glazing over 2 metres in height. I acknowledge the appellant's correspondence with the Council on this matter and that breaches of the Code will be assessed on a case-by-case method. However, there is no evidence to suggest that any of the circumstances were identical in terms of the relationship of the extensions with adjacent neighbouring ground floor windows. None of the examples cited forms sufficient precedence to allow harmful development at the appeal site.

Conclusion

8. For the reasons given above the appeal is dismissed.

Martin H Seddon

INSPECTOR