



Appeal Decision

Site visit made on 31 July 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 August 2024

Appeal Ref: APP/P4605/W/24/3338248

92 Stoney Lane, Sparkbrook, Birmingham B12 8AF

- 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 A Pashtoonmal against the decision of Birmingham City Council.
 - The application Ref is 2023/05144/PA.
 - The development proposed is dormer windows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above is taken from the original application form. However, the Council's decision notice refers to erection of rear dormer, conversion of first floor and loft to a flat, creation of new front entrance and retention of roof lights. That is also consistent with the description on the appellant's appeal form. Therefore, I have determined the appeal on the basis of that longer description.

Main Issue

3. The main issue is the effect of the proposed rear dormer on the living conditions of the occupants of the loft flat at 94 Stoney Lane, with particular regard to outlook and light.

Reasons

4. The rear dormer at No 94 includes a rear facing window which provides the sole outlook from its loft living room. It also includes a side facing window facing towards No 92. This provides the sole outlook from its loft kitchen. Currently these windows enjoy a relatively open outlook, overlooking the two storey pitched roof of the appeal site.
5. The proposed rear dormer would extend along the full length of the appeal site's existing two storey rear wing to provide a loft bathroom. As such, it would be longer than the rear dormer at No 94. The proposed side elevation facing No 94 would be blank, with no windows. Given its position at roof level, equivalent to that of the loft at No 94, I am not persuaded that occupants of No 94 would retain outlook over the proposed roof. Thus, from the loft flat at No 94, the proposed loft bathroom it would have a stark appearance and would unacceptably constrain outlook due to its length and absence of windows.

6. The proposed loft bathroom would also breach the 45 degree rule as set out in City Note LW-4 of the Birmingham Design Guide (September 2022) (Design Guide), for the rear facing loft window at No 94. However, the proposed bathroom would have a flat rather than pitched roof. This would help to minimise the roof line and thus limit its shadowing effect on the rear facing window at No 94.
7. In addition, the appeal site is located approximately to the north of No 94. Therefore, even taking into account its proximity to No 94, there would logically be at most only very limited change to sunlight levels appreciated from within either of the loft windows at No 94, as a consequence of the proposed development. Accordingly, in the particular circumstances of this case, the proposal would not result in an unacceptable reduction in light within the loft at No 94. Thus, it would not harm the living conditions for the occupants of the loft at No 94 with regard to light.
8. However, for the reasons given above, it would unacceptably harm their living conditions with regard to outlook. Consequently, it would conflict with Policy DM10 of the Development Management in Birmingham Development Plan Document (December 2021) (the DPD) which includes a requirement to provide adequate outlook. Similarly, it would conflict with the overall amenity aims of Policy DM2 of the DPD. Given the harm to living conditions with respect to outlook, the proposal would not achieve high quality design, in conflict with Policy PG3 of the Birmingham Development Plan 2031 (January 2017).
9. Similarly, it would conflict with paragraph 135 of the National Planning Policy Framework. Amongst other matters this requires that proposals achieve a high standard of amenity for existing and future users. It would also not comply with City Note LW-3 and LW-4 of the Design Guide, relating to protection of residential amenity.
10. The appellant questions whether the planning permission for the loft at No 94 was determined with sufficient regard to its effect on loss of light or outlook from the roof lights at the appeal site. Nonetheless, from the evidence before me I have no reason to conclude that its effect would have been anything other than satisfactory in that regard. In any event, that would not alter my reasoning in respect of the effect of this proposal on outlook.
11. In addition, the appellant questions whether that loft permission was lawfully implemented. However, the lawfulness of that development is not a matter for consideration within this appeal. It is unclear whether or not the clear glazed loft kitchen window at No 94 should in fact have been installed with obscure glazing. The planning permission for that scheme is not before me to enable a more definitive conclusion. Nevertheless, I have found that the length of the proposal and its blank facade would constrain the outlook from No 94's rear facing loft living room window in any event.

Other Matters

12. The proposal would be acceptable with respect to matters such as internal space standards, provision for refuse and recycling, impacts on parking, and its effect on character and appearance of the surroundings. In addition, the proposal is in an accessible location. However, these are neutral considerations. The proposal would increase the living space within No 92. Nonetheless, this

would not outweigh the enduring harm to the living conditions of the occupants of No 94, with regard to outlook.

Conclusion

13. Therefore, for the above reasons, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR