



Appeal Decision

Site visit made on 29 July 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/P4605/D/24/3343126

1 Leeson Walk, Birmingham B17 0LU

- 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 Mr Roger Nelson against the decision of Birmingham City Council.
 - The application Ref 2024/01118/PA, dated 20 February 2024, was refused by notice dated 28 March 2024.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

1. The application form references 2 Leeson Walk as the adjoining property. For clarity, based on my site visit and the submitted site location plan, the adjoining terraced property is 3 Leeson Walk.
2. 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 GPDO), deemed planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
3. Where a proposed enlargement would exceed the limits in paragraph A.1(f) but fall within those in paragraph A.1(g) to Part 1, paragraph A.4(5) provides that the local planning authority should notify each adjoining owner or occupier. Where any objections are received, paragraph A.4(7) stipulates that the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of all adjoining premises.
4. An objection was received from the occupier of the adjoining property. The Council therefore proceeded to consider the impact of the proposal on the amenity of any adjoining premises, as required. It subsequently refused the application on grounds relating to the effects of the proposal on the occupiers at 3 Leeson Walk. In refusing the application, the Council cited policies from the Birmingham Development Plan (2017) and Development Management in Birmingham Development Plan Document (2021) (DPD). However, since the principle of the development is already established by the GPDO, I can have regard to the policies of the development plan only insofar as they are material to the matters for which prior approval is sought.

Main Issue

5. The main issue in this appeal is the impact of the proposed development on the amenity of the occupiers of 3 Leeson Walk (No 3) with particular regard to outlook and daylight.

Reasons

6. The appeal property and the terrace it forms part of has a difference in ground levels between the front and rear elevations. Consequently, the sills of the two ground floor windows at the rear of No 3 are almost level with the garden, with the internal floor levels of the rooms they serve set below ground. One of the windows is positioned close to the shared boundary with the appeal property. I saw that there is hedging along the boundary.
7. The proposed single-storey rear extension would extend beyond the rear wall of the original dwellinghouse by 4.35 metres, parallel and adjacent to the boundary with No 3. The extension would be constructed partially below ground, with the section above ground having a height of approximately 2.14 metres, measured from natural ground levels at the boundary with No 3.
8. The development would be taller and more solid than the current hedge. As a result, it would dominate views from the window closest to the appeal property and harm the outlook of the occupiers of No 3. Although I have no technical evidence in the form of a Daylight and Sunlight Report, it is likely that the development would reduce levels of daylight in the affected room. This assessment is supported by the fact that the extension would infringe a 45-degree line taken from nearest ground floor rear window at No 3 which the Council uses to assess the impact of a proposal on outlook and light.
9. For the reasons above, the proposal would have a materially harmful impact on the amenity of the occupiers of 3 Leeson Walk by reason of loss of outlook and daylight. Insofar as they are relevant to the prior approval matters, the scheme would conflict with Policies DM2 and DM10 of the DPD. Amongst other things, these policies seek to ensure that new development protects residential amenity ensuring adequate light and outlook. The proposal would also conflict with the Birmingham Design Guide Supplementary Planning Document (2022), specifically Design Principle 13 which ensures residential amenity is protected, and the National Planning Policy Framework which has similar aims.

Other Matters

10. The appellant argues that the proposed extension would be only 1.35 metres longer than an extension that would be permitted by paragraph A.1(f) without the need for prior approval. However, such an extension would be more limited than the appeal proposal in terms of its effect on daylight and outlook for the neighbour. As such, the fallback is not directly comparable.

Conclusion

11. For the reasons given above, I conclude that the appeal should be dismissed.

T Bennett

INSPECTOR