The Planning Inspectorate

Appeal Decision

Site visit made on 19 January 2025

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/P4605/D/24/3352688

9 Rosebery Street, Birmingham B18 7PB

- 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. Dalwinder Singh against the decision of Birmingham City Council.
- The application Ref is 2024/01961/PA.
- The development is first floor rear extension.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the determination of the application the National Planning Policy Framework (2023) has been superseded by the National Planning Policy Framework (2024) (the Framework). However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the living conditions of occupiers of No. 112 Clissold Street.

Reasons

4. The appeal site is an end terraced two storey property within a predominantly residential area. The rear boundary of the appeal site bounds the side of No. 112 Clissold Street's private rear garden, an end terraced property which is slightly angled towards the appeal site.

5. The Birmingham Design Guide, Design Principles (2022) sets out in Design Principle 13 that developments must ensure they do not have an unacceptable impact on the amenity, outlook or privacy of existing or new residential properties. Design Principle 13 confirms that details of minimum privacy distances are presented in City Notes LW-3 and LW-4 of the Birmingham Design Guide, Healthy Living and Working Manual (2022).

6. City Note LW-3 confirms that a 5m setback per storey where windows serving habitable rooms overlook existing private space is required. Habitable rooms

include bedrooms as defined in the glossary of the Birmingham Design Guide, Design Principles.

7. The proposed development is on the first floor on this basis in general a 10m separation distance in accordance with City Note LW-3 would be anticipated. The proposed development would not meet this separation distance.

8. Whilst the appellant argues that the seating area within the rear garden of No. 112 Clissold Street is not used, the whole garden is private space for the existing or future occupiers of No. 112.

9. The appellant contends that a condition could be imposed to ensure that the first-floor window serving the proposed bedroom contained obscure glazing to limit any overlooking and loss of privacy. This window would be the only window in the bedroom, whilst obscure glazing to the window would mitigate to a degree overlooking, there would still be a sense of being overlooked. I am also not persuaded that this would provide future users of that bedroom with an adequate outlook.

10. I find that the proposed development would harm the living conditions of occupiers of No. 112 Clissold Street.

11. There is conflict with Policies PG3 and TP27 of the Birmingham Development Plan (2017) and Policy DM2 of the Birmingham Development Plan Document (2021) which amongst other things seeks to protect the amenity of neighbours.

12. There is also conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.

Other Matters

13. The appellant has raised procedural concerns relating to the determination of the application in relation to the lack of contact between the Council and the appellant and the issuing of the decision. This is beyond the remit of this appeal and does not influence my findings.

Conclusion

14. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR