



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: 31st January 2025

Appeal Ref: APP/P4605/D/24/3356792

47 Southwood Avenue, Birmingham, B34 6PP

- 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. C Tuffin against the decision of Birmingham City Council.
 - The application Ref is 2024/04338/PA.
 - The development is erection of rear extension.
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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 Since the determination of the application the National Planning Policy Framework (2023) has been superseded by the National Planning Policy Framework (2024) (the Framework).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. 45 Southwood Avenue.

Reasons

4. 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 the 45 Degree Code are presented in City Note LW-4 of the Birmingham Design Guide, Healthy Living and Working Manual (2022).
5. Based on LW-4 the point to apply the 45 Degree Code should be taken from the mid-point of the nearest ground floor habitable room window. Both Design Principle 13 and LW-4 highlight that the Code will be applied to any proposed extension. However, exceptions to these standards will be considered on a case by case basis.
6. The proposed development would be located along the shared boundary with No. 45, as the built form would be to the north this would limit to a degree the

amount of overshadowing created. A timber fence exists between properties which the appellant confirms is between 1.8-2m in height the proposed development would extend above this by 1-1.2m for approximately 4m, I find that this would be overbearing in terms of outlook for the occupiers of No. 45.

7. I understand from the Council that No. 45 Southwood Avenue nearest habitable room is served by a window to the front as well as the rear. Given the depth of the room the existence of the dual aspect and the outlook the proposed development would create does not persuade me that the proposed development should be an exception to the 45 Degree Code.
8. I find that the proposed development would harm the living conditions of occupiers of No. 45 Southwood Avenue.
9. There is conflict with Policy PG3 of the Birmingham Development Plan (2017) and Policies DM2 and DM10 of the Birmingham Development Plan Document (2021) which amongst other things seeks to protect the amenity of neighbours.
10. There is also conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.

Other Matters

11. The appellant contends that a larger development could be progressed under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) prior notification route. The appellant highlights that as neighbours have not objected to the appeal proposal this would suggest that prior approval for a 4 metre deep rear extension may not have been required. Whilst this maybe the case I have not been provided with substantive evidence to confirm that the prior notification route is available to the appellant or that the neighbours would not object to a prior notification scheme. Therefore, I cannot be sure that this is a reasonable fallback position. I therefore give this limited weight.

12. Conclusion

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

C Pipe

INSPECTOR