



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: 3rd February 2025

Appeal Ref: APP/P4605/D/24/3353328

31 Brookfield Road, Brandwood, Birmingham, B30 3QY

- 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. R King against the decision of Birmingham City Council.
 - The application Ref is 2024/01495/PA.
 - The development is single storey side and rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for single storey side and rear extension at 31 Brookfield Road, Brandwood, Birmingham, B30 3QY in accordance with the terms of the application, Ref 2024/01495/PA, and the plans submitted with it, subject to the conditions set out below:

(1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans:

- 447_AR_000_001_0 Location Plan
- 447_AR_000_012_0 Proposed Site
- 447_AR_030_011_B Proposed Ground Plan
- 447_AR_030_012_0 Proposed First Plan
- 447_AR_040_011_A Proposed South Elevation
- 447_AR_040_012_A Proposed South East Elevation
- 447_AR_040_013_A Proposed East Elevation
- 447_AR_040_014_A Proposed North East Elevation

(3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.

(4) The windows in the elevation facing No. 12 Earlswood Road hereby permitted shall be fitted with obscured glazing at the time of use. Once installed the obscured glazing shall be retained thereafter.

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 Since the determination of the application the National Planning Policy Framework (2023) has been superseded by the National Planning Policy Framework (2024) (the Framework).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 Issues

3. The main issues in this appeal are the effect of the proposed development on (i) the character and appearance of the area; and (ii) living conditions of occupiers of No. 12 Earlswood Road.

Reasons

Character and Appearance

4. The appeal site comprises an end terraced property within a predominantly residential area. The area comprises properties of varying scale and design. The appeal property is three storey and includes an angled front and rear elevation.
5. Whilst the proposed single storey extension would not be of a typical design, it would be contemporary containing an angled rear elevation which would accord with design of the existing rear elevation.
6. The appeal site contains a white UPVC conservatory whilst there are other conservatories within the immediate area, the proposed materials of the single storey extension would better assimilate with the existing property and area in general.
7. The proposed development would be in keeping with the design of the existing property and would not appear incongruous, given the variety of designs of properties in the area. The proposed development would also be screened to a degree by the large rear boundary wall.
8. I find that the proposed development would not harm the character and appearance of the area.
9. There is no conflict with Policy PG3 of the Birmingham Development Plan (2017) (the BDP) and Policy DM2 of the Birmingham Development Plan Document (2021) (the DPD) which seeks amongst other things to ensure developments create an attractive and high quality development appropriate to its location.
10. There is also no conflict with the Birmingham Design Guide Supplementary Plan Document (2022) which amongst other things seek to ensure development respect the appearance of a property and local area.
11. There is no conflict with the Framework which seeks amongst other things to ensure developments are of good design appropriate and sympathetic to their surroundings.

Living Conditions

12. 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).
13. Based on LW-4 if the nearest elevation of the neighbouring property has a fully glazed conservatory, the point to apply the 45 Degree Code should be taken from the habitable room window from which the conservatory is attached.
14. 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.
15. There is a difference in floor level between the appeal site and No. 12 Earlswood Road. There is an existing conservatory at No. 12 which sits at a higher level to that of the conservatory on the appeal site. I also note that the existing conservatory at the appeal site breaches the 45 Degree Code.
16. The proposed development would project further than the existing conservatory. Nevertheless, due to the difference in levels, the existing 45 Degree Code breach, combined with the glazing along the shared boundary and within the roof the proposed development would not exacerbate the existing relationships between the appeal site and No. 12.
17. I find that the proposed development would not harm the living conditions of occupiers of No. 12 Earlswood Road.
18. There is no conflict with Policy PG3 of the BDP and Policies DM2 and DM10 of the DPD which amongst other things seeks to protect the amenity of neighbours.
19. There is also no conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.

Other Matters

20. The Council has drawn my attention to a dismissed appeal decision¹ for replacement of a conservatory with rear extension. Limited information has been submitted to allow comparison to the proposal before me, however I understand from the Council that the appeal decision proposed to incorporate glazing to overcome the 45 Degree Code.
21. Notwithstanding the appeal decision as noted above the proposed development would complement the angled rear elevation and would not exacerbate the existing relationship between the appeal site and No. 12 Earlswood Road. Each development must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal before me.

Conclusion and conditions

22. For the above reasons I conclude that this appeal should be allowed.

¹ APP/P4605/D/24/3338178

23. I have imposed a standard condition relating to the commencement of development and a condition specifying the relevant plans as this provides certainty. In order to safeguard the character and appearance of the area I have imposed a condition concerning materials.
24. In the interests of protecting the living conditions of No. 12 Earlswood Road I have imposed a condition relating to obscure glazing for the windows in the side elevation.

C Pipe

INSPECTOR