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## Appeal Decision

Site visit made on 15 January 2025 by S Indermaur

### Decision by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2025

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#### Appeal Ref: APP/P4605/D/24/3354827

#### 150 Perry Common Road, Birmingham B23 7AT

- 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 Cosmos Kibona against the decision of Birmingham City Council.
  - The application Ref is 2024/03737/PA.
  - The development proposed is a single storey rear extension, maximum height 4 metres, eaves height less than 3 metres.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

3. The main issue is the effect of the proposal on the living conditions by way of impact on sunlight, daylight and outlook to the neighbouring occupiers of 148 Perry Common Road (No.148).

### Reasons for the Recommendation

4. The appeal property is a mid-terraced dwelling with a hipped roof, and small extension to the rear. The rear of the property faces towards the southwest. The nearest window to the rear of the neighbouring property, No. 148 are double glass doors that serve a habitable room.
5. The submitted plans demonstrate that the proposed extension would project five metres into the rear garden. The combination of the significant depth and projection of the extension, and the proposed positioning next to the boundary, would cause a significant presence from the window and patio area. Whilst there is a fence on the shared boundary, the proposed extension would be substantially higher than the fence and together with its depth would create a strong sense of enclosure. This would result in material harm to the outlook of occupiers of No 148.
6. Moreover, Policy DM10 of the Development Management in Birmingham 2021 (DPD) sets out that development will need to ensure adequate outlook and daylight to dwellings, in line with the approach of the '45-degree code'. This means that development should not breach the line from an angle of 45 degrees from the nearest window providing the main source of natural light to a 'habitable room' of

dwelling that could be affected. The Birmingham Design Guide SPD 2022 expands on this approach, stating that for a single storey development, a 45-degree line should be taken from the mid-point of the nearest ground floor habitable window. Given the depth of the extension and proximity to the property No.148, the proposal would unequivocally extend beyond 45-degree angle

7. The appeal site's rear garden is southwest facing, affording good levels of sunlight and daylight throughout the day. However, despite this favourable aspect, summer evening and afternoon sunlight would be obscured by the proposal for substantial periods of the year. Furthermore, daylight would also be eroded due to the proximity and scale of the proposal.
8. The appellant's shadow diagrams suggest that the proposal would cause only marginal shadowing in January. This may be less noticeable to the occupiers of No.50 as they are less likely to use the patio at this time. However, the appellant's evidence suggested that No.148 would have ten hours of daylight, yet this only shows overshadowing at 16:12 in June. Without more comprehensive diagrams, I cannot be certain of the extent of overshadowing that would occur. Moreover, the shadowing would extend across at least half of a window and noticeably also a substantial section of patio. Given this patio area is likely to be used for sitting out by neighbouring occupiers, such a reduction of sunlight would materially harm the occupier's enjoyment of this space.
9. Therefore, the effect on outlook, sunlight and daylight considered together would lead to an unacceptable effect on the living conditions of the neighbouring occupiers of No.148. Accordingly, the proposal would be in conflict with Policies DM2 and DM10 of the DPD, which together state that development should not result in an unacceptable adverse impact on the amenity of neighbours by way of outlook, sunlight, daylight and overshadowing to internal and external living spaces.
10. Policy PG3 of the Birmingham Development Plan 2017 exclusively deals with design quality and sense of place. As such this Policy is not relevant to this case. However, this does not minimise the conflict with the relevant policies in the development plan or the associated harm.

### **Other Matters**

11. The appellant has suggested that they would be willing to reduce the size of the extension. However, amended plans are not before me and an appeal would not be an appropriate forum to attempt to evolve a scheme.
12. The proposal would have a similar building line and height as the rear extension at No.152. However, this occupies a different context as there is a gap between the extension and the appeal property and it appears that the property on the other side had some form of development that extended the rear building line. Furthermore, the planning context of that decision is not within the submitted evidence and may predate the adopted policies the subject of this appeal. As such, I cannot be certain that the neighbouring development was made in the same policy context or would cause a similar impact to living conditions as the proposal. I do not have plans that demonstrate this and therefore I need to deal with the case before me.

### **Conclusion and Recommendation**

13. The proposal would conflict with the development plan read as a whole and there are no material considerations that justify granting permission. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

*S Indermaur*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

14. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

*B Plenty*

INSPECTOR