



Appeal Decision

Site visit made on 23 June 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th July 2025

Appeal Ref: APP/P4605/W/25/3363613

217-219 Cherrywood Road, Bordesley Green, Birmingham, West Midlands, B9 4XD

- 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 Liaqat Hussain of Daniyal Billal Holdings against the decision of Birmingham City Council.
- The application Ref is 2024/04202/PA.
- The development proposed is the creation of 2-bed flat on the first floor and the addition of roof lights.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have amended the description of development as noted on the application form for reasons of clarity. The description of development noted in the banner heading above matches that listed on the decision notice and appeal form.

Main Issues

3. The main issues are the effect of the proposed development on the living conditions of:
 - future occupiers of the proposed flat, with particular regard to outlook and privacy; and
 - the occupiers of flat one, with particular regard to outlook.

Reasons

Future occupiers- outlook and privacy

4. The appeal site comprises of a two-storey building. The evidence before me outlines that the ground floor is used as a bereavement centre for women and an education centre. There are two existing flats on the upper floor. Surrounding development comprises mainly residential properties.
5. The proposal would result in the creation of an additional two-bedroom flat at first floor level. Apart from the addition of a number of rooflights, the external appearance of the building would remain largely unaltered.
6. Regarding outlook, the proposed living/dining room would not be served by any external windows. Although there are existing rooflights serving this room, these would only offer a limited view of the sky and would not provide what I consider to

be a reasonable outlook. Although not shown on the original plans, the appellant appears to indicate at final comments stage that this room is already served by an internal window looking into the communal area. However, in my view, such an arrangement would also not provide a reasonable outlook as views would be into an internal area which could be accessed by a number of flats.

7. Whilst both bedrooms would be served by a window, these would be largely obscurely glazed, apart from the upper portion of the window. Such an arrangement would only offer a limited view of the sky or the gables of adjacent properties and would therefore not provide what I consider to be a reasonable outlook. Whilst both bedrooms would be served by two rooflights, this would again only offer a limited view of the sky and not provide a reasonable outlook. The bathroom window would also be mainly obscurely glazed and would therefore not provide reasonable outlook. For the above reasons, the proposed flat would not provide an acceptable standard of outlook to future occupiers.
8. Turning to privacy, the proposed kitchen would be served by a window looking out into the communal stairway area. The stairway would be used for access by occupiers of the two other first floor flats. The proposed window would result in an unacceptable loss of privacy to the occupiers of the proposed flat, as neighbouring residents could essentially look into the proposed flat. Whilst not shown on plans, the appellant appears to suggest that the window would be obscurely glazed. However, even with obscure glazing there would still be a perception of overlooking from this opening. In addition, it would still be readily apparent when neighbouring residents are using the communal stairwell. I am therefore not satisfied that the use of obscure glazing would overcome this issue.
9. For the reasons outlined above, I do not agree that the proposed development would improve the relationship between neighbouring properties. Whilst the proposed rooflights would provide some natural light and ventilation, this does not outweigh the need for an acceptable standard of outlook from the bedrooms and lounge/dining area. Although the site is somewhat confined by its proximity to neighbouring properties, this does not justify the harm outlined above.
10. For the above reasons, the proposed development would be detrimental to the living conditions of future occupiers, by way of lack of outlook and privacy. This would be contrary to Policy PG3 of the Birmingham Development Plan 2031 (2017) and Policies DM2 and DM10 of the Development Management in Birmingham- Development Plan Document (2021) (DPD). Collectively, amongst other matters, these policies seek to ensure high quality development that does not result in unacceptable adverse impacts on the amenity of occupiers.

Occupiers of flat one- outlook

11. Flat one is located towards the front of the building at first floor level. It is unclear from the evidence before me as to whether two internal windows serving the lounge and bedroom of flat one has been closed up. The Council's evidence shows these two windows on the consented plans for the previously approved scheme for flat one (Ref:2017/10725/PA) and their statement of case explains that the provision of these windows was an intrinsic part of the officer's decision to allow the scheme. However, the submitted existing plans shows them closed up.
12. In any instance, even if they have already been closed up, the addition of a flat in the void space would remove the opportunity for them to be opened up again,

thereby resulting in poor living conditions by way of loss of outlook for existing occupiers of flat one. Furthermore, the lack of enforcement action does not demonstrate that this arrangement is indeed lawful, nor does it justify the loss of outlook. The appellant indicates that the bedroom and lounge area (marked as dining room on plan in final comments) now benefits from rooflights and what appears to be an internal window to the kitchen area. However, this arrangement would not provide a reasonable outlook as views would either be of the kitchen or the sky and it would not justify the loss of outlook as a result of the scheme.

13. The appellant outlines how the planning approval originally granted for flat one should not have been reliant on internal facing windows to provide outlook. However it is clear that they formed an intrinsic part of the officer decisions at the time and in any instance, this consideration does not justify or outweigh the harm that I have identified above.
14. For the reasons outlined above, the proposed development would be detrimental to the occupiers of flat one, by way of loss of outlook. This would be contrary to Policy PG3 of the Birmingham Development Plan 2031 (2017) and Policies DM2 and DM10 of the Development Management in Birmingham- DPD (2021). Collectively, amongst other matters, these policies seek to ensure high quality development that does not result in unacceptable adverse impacts on the amenity of existing occupiers.

Other Matters

15. I acknowledge the appellant's concerns over the Council's handling of the application. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.
16. The appeal site is not within an area of flooding. It is not situated within a Conservation Area and is not a designated heritage asset. The Council's Environmental Protection Officer and Transportation Team have not raised any objection to the scheme, nor have any neighbours. However, these are neutral factors and do not weigh in favour of, nor against, the appeal.
17. Additional rooflights and a redesign of the flat to achieve a workable area are suggested. However, the appeal process should not be used to evolve a scheme. I have assessed the appeal on the evidence before me.
18. The scheme would make a small contribution to local housing in an accessible location. However, this does not outweigh the harm that I have identified above. The appellant outlines how the scheme would contribute to the supply of affordable accommodation. However, it has not been indicated on the application form that the proposed flat would be affordable housing. I have therefore afforded this limited weight in favour of the appeal.

Conclusion

19. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Burch

INSPECTOR