



Appeal Decision

Site visit made on 23 September 2025

by **Les Greenwood MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 October 2025

Appeal Ref: APP/P4605/D/25/3371717

47 Maxwell Avenue, Birmingham B20 3TT

- 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 Ms Angela Russell against the decision of Birmingham City Council.
 - The application Ref is 2025/01679/PA.
 - The development proposed is a 2 storey side and rear extension, a single storey rear extension and conservatory together with a hip to gable loft conversion, a dormer window to the rear and roof lights to the front elevation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - i) The character and appearance of the house and the local area; and
 - ii) Living conditions at 49 Maxwell Road next door, in terms of the impacts on privacy, light and outlook.

Reasons

Character and appearance

3. 47 Maxwell Road is a semi-detached house on a street of similar houses. The proposal would add a first floor over the single storey garage to the side boundary with No 45, extending back to the rear at 2 stories on that boundary then dropping down to a single storey rear extension with balcony over plus a conservatory on the boundary with No 49. At roof level, the hipped roof would be extended to form a full gable, and a flat roofed box dormer would be added. The Council's concerns in relation to this issue are about the roof level extensions.
4. Most of the houses on Maxwell Road have hipped roofs but a significant number have gables to the side, whether by extension or original design, so that varied roof styles are now part of the character of the area. The other half of the pair of semis, No 49, has a full gable so the proposed hip to gable extension would bring No 47 into line with that property, re-balancing the design of the building. It would be an unremarkable feature, not incongruous or out of keeping with the house or the street scene.
5. Likewise, a number of other nearby properties, including No 49, have box dormer extensions on their rear roof slopes. Although the proposed dormer would be a

large flat roofed structure, it would be set within the new roof slope so that it would not be an overly dominant or unsympathetic feature. It would likely be glimpsed from the street, but would not be intrusive or out of place in any public or private views.

6. I conclude that the proposal would not harm the character or the appearance of the house or the local area. It accords in this respect with policy PG3 of the Birmingham Development Plan (BDP), policy DM2 of the Development Management in Birmingham Development Plan Document (DMB), the Birmingham Design Guide Supplementary Planning Document (SPD) and the National Planning Policy Framework (the Framework), which aim to secure high quality design that responds to the local context.

Living conditions

7. The proposed balcony would provide users with high level views into the rear first floor windows and much of the garden of No 49, at very close range. This would substantially intrude on the privacy of occupiers of that property. New planting could not mitigate this effect significantly. I am less concerned about the effect on privacy in No 49's rear conservatory as it has a translucent roof so any views in would be heavily blurred at best. In any case, that conservatory has extensive obscured glazing on the side, facing directly into No 47's rear garden, so there is already a degree of mutual overlooking there. The balcony would nevertheless cause an undue loss of privacy at No 49.
8. The proposed conservatory would extend well to the rear, along the boundary with No 49. The Council's concern is that it would cause a loss of light and outlook to the nearest rear, habitable room window of that property. DMB policies DM2 and DM10 aim to ensure that developments do not result in unacceptable adverse impacts on the amenity of neighbours, referring to the use of a 45 degree code. This is set out in the SPD, which says that proposals must not break a 45 degree line (in the horizontal plane), which is to be drawn from the mid-point of the nearest habitable room window, ignoring attached conservatories as at No 49.
9. The proposed new conservatory would break the 45 degree line by a considerable amount. It would, however, be a low structure, with a side wall that would only be a modest amount higher than the existing boundary wall and a glazed roof sloping sharply away from No 49. Its impact on natural light and the on views from the rear of No 49 would therefore, in practice, be reasonably limited. On this basis I find that that there would be no unacceptable impacts on No 49's light and outlook, despite non-compliance with the detailed 45 degree code guidance set out in the SPD.
10. Even so, my concerns about overlooking from the proposed balcony are enough for me to conclude that the proposal would unacceptably harm living conditions at No 49 through loss of privacy. In this respect, the proposal conflicts with DMB policies DM2 and DM10, the SPD and the Framework, which aim to ensure a high standard of amenity for existing and future users. The Council also refers to BDP policies PG3 and TP27 here, but I find no significant conflict with those policies dealing with design quality and sustainable neighbourhoods.

Other matters

11. I note that there were no neighbour objections to the proposal, but that does not set aside my concerns, as any extensions permitted now would likely last long into the

future. The appellant refers to other properties in the local area having balconies, but I do not have details of those situations. I have assessed this proposal on its own merits. The appellant also states a request under the Freedom of Information Act 2000 for the disclosure of the total numbers of all properties throughout the local post code area that possess balconies. Such a request would need to be directed to the Council.

12. The appellant furthermore cites Article 1 of the Human Rights Act 1998, that people are entitled to the peaceful enjoyment of their possessions. Any decision refusing planning permission will limit the use of property, but the Act clarifies that Article 1 does not impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest. I am satisfied that withholding planning permission in this case is an appropriately proportional response, made in the general interest and bearing in mind the rights of occupiers of No 49 as well.

Conclusion

13. Due to the potential loss of privacy to the occupiers of No 47 next door, I find that the proposal conflicts with the development plan, taken as a whole. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR