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## Appeal Decisions

Site visit made on 8 September 2025

**by Chris Baxter BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 17<sup>th</sup> October 2025**

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**Appeal A Ref: APP/P4605/C/25/3363378**

**Appeal B Ref: APP/P4605/C/25/3363379**

**104 Tetley Road, Tyseley, Birmingham B11 3BT**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
  - The appeals are made by Mrs Rahila Kausir Mughal (3363378) and Mr Mohammed Israr Mughal (3363379) against an enforcement notice issued by Birmingham City Council.
  - The notice was issued on 11 February 2025.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension in approximate position shown marked in green on the attached plan.
  - The requirements of the notice are to:
    - i. Reduce the depth of the single storey rear extension to three (3) metres or;
    - ii. Remove the single storey rear extension in its entirety and,
    - iii. Remove all building materials and rubble from the land as a result of compliance with sub-paragraph i, or sub-paragraph, ii above.
  - The periods for compliance with the requirements are six months.
  - Appeal A is proceeding on the grounds set out in section 174(2)(a), (d), (f) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act. Appeal B proceeds on grounds (d) and (f) only.
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### Decision

1. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

### Appeals on ground (d)

2. In order for an appeal on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late for enforcement action to be taken. The test on the evidence is on the balance of probability.
3. Section 171B(1) of the Act provides that no enforcement may be taken in respect of any unauthorised operational development after the end of the period of four years. The appellants state that the extension has been completed and in place for a few years prior to the issuing of the enforcement notice.
4. The Council state a complaint regarding the extension was received in October 2023 which was accompanied by photographs of the extension being under construction and not completed. The Council further state that a site visit was carried out on 26 January 2024 that confirmed that the extension was substantially completed sometime between October 2023 and January 2024.
5. There is no compelling evidence before me which clearly shows that the alleged development has been in place for over four years. As a matter of fact and degree,

and on the balance of probability, the alleged development was not in place more than four years before the notice was issued and it was not too late for the Council to take enforcement action on these matters.

6. The appeal on ground (d) therefore fails.

### **Appeal A on ground (a)**

7. This ground of appeal is that planning permission should be granted for the matters alleged in the notice.

### Main issues

8. The main issues are the effect of the development on (i) the living conditions of the occupiers of 102 and 106 Tetley Road with regards to privacy, light and outlook; and (ii) the character and appearance of the surrounding area.

### Reasons

#### *Living conditions*

9. The extension subject of the enforcement notice is large and excessive in length and width being within close proximity to the boundaries with neighbouring properties 102 and 106 Tetley Road. Nos 102 and 106 have windows and doors in the rear elevations which are close to the large expanse of built development of the extension, and significantly compromises the outlook of the neighbouring occupiers of Nos 102 and 106.
10. Due to the orientation, scale and raised position of the extension, it creates overshadowing effects on the garden and windows of Nos 102 and 106 that adversely affects the amount of light received by these properties.
11. There are windows in the sides of the extension and given its close proximity to the boundary of the neighbouring properties either side and the windows in the rear of Nos 102 and 106, the privacy of the occupiers of the neighbouring properties have been unacceptably compromised.
12. The extension has a harmful effect on the living conditions of occupiers of Nos 102 and 106 in respect of privacy, light and outlook. The extension is not in accordance with Policies PG3 and TP27 of the Birmingham Development Plan (BDP) and Policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document (DPD) which seeks development to not result in unacceptable adverse impacts on the amenity of occupiers and neighbours.

#### *Character and appearance*

13. The area surrounding the appeal site is characterised predominantly by two storey residential properties, some of which have been altered to the rear by modest extensions. The uniformed pattern of development with modest built form of dwellings in the area is what positively contributes to the character of the area.
14. The extension is excessive in scale and appears as a dominant feature that is out of keeping with the pattern of development and built form in the area. The extension, due to its size and bulk, detracts from the appearance of the existing property and has an adverse effect on the character of the surrounding area.

15. The extension has a harmful effect on the character and appearance of the surrounding area, and it is contrary to Policy PG3 of the BDP and Policy DM2 of the DPD which seeks development to be appropriate to its location and demonstrate high design quality.

#### *Personal circumstances*

16. The appellants statement of case describes members of the family that are vulnerable and have specific health needs that require necessary facilities including a toilet and a conservatory. Medical documents have been submitted which provides confirmation on some of these matters. The enforcement notice provides a requirement that the rear extension could remain with it being at a reduced length of three metres. There is no compelling evidence before me to suggest that an extension of reduced width which could include a bathroom/toilet facility cannot accommodate the specific health needs that have been described to me.
17. I have also had regard to the appellants comments regarding the financial effects of adhering to the notice requirements and emotional distress this could cause to the occupiers of the appeal property. Nevertheless, the extension is an unauthorised development which I have found to be harmful to the character and appearance of the area as well as harmful to the living conditions of neighbouring occupiers which in itself could have effects on the wellbeing of neighbouring occupiers.

#### Conclusions

18. I recognise that the failure of this appeal could affect arrangements for the appellants. Having regard to the circumstances drawn to my attention, this would represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established development plan policies which aim to safeguard living conditions of neighbouring occupiers and the character and appearance of an area, in this case I consider greater weight is attached to these. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellants or their family members.
19. For all the reasons given above, I conclude that the single storey rear extension results in harm to the character and appearance of the area, and to the living conditions of occupiers of Nos 102 and 106 in respect of privacy, light and outlook, and this harm does outweigh the benefits described above. As such, it conflicts with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweighs this finding.
20. The appeal therefore fails on ground (a).

#### **Appeals on ground (f)**

21. An appeal on ground (f) is that requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may, the injury to amenity that is caused by the breach. The notice requires the extension to be removed or reduced to a depth of three metres, which the purpose is therefore to remedy the injury to amenity.

22. The appellant argues that the requirements are excessive and that alternative minor modifications can be undertaken to comply with light access guidelines. No compelling evidence has been provided showing minor modifications to the extension which could overcome the harm which has been described above towards living conditions of neighbouring occupiers and to the character and appearance of the area.
23. The requirements of the enforcement notice go no further than remedying the injury to amenity and for these reasons, the appeal on ground (f) fails.

### **Conclusion**

24. For the reasons given above, I conclude that the appeals should fail on grounds (a), (d) and (f), and therefore the appeals are dismissed, and the enforcement notice should be upheld.

*Chris Baxter*

INSPECTOR