
Appeal Decision

Site visit made on 27 October 2025

by **K Dryden BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 November 2025

Appeal Ref: APP/P4605/W/25/3372225

230A Grange Road, Moseley and Kings Heath, Birmingham B14 7RS

- 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 M Puopolo against the decision of Birmingham City Council.
 - The application Ref is 2024/07771/PA.
 - The development proposed is change of use from builders yard to new residential property to 230A Grange Road, including extensions and conversion of existing building, with new amenity space formed to 230 Grange Road.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from builders yard to new residential property, including extensions and conversion of existing building, with new amenity space formed at 230A Grange Road, Moseley and Kings Heath, Birmingham, B14 7RS in accordance with the terms of the application, Ref 2024/07771/PA, subject to the conditions in the attached schedule.

Preliminary Matter

2. Whilst the planning application form refers to the site address as 230 Grange Road, Moseley and Kings Heath, Birmingham, B14 7RS, the appeal address consistent with the submitted plans is 230A Grange Road, Moseley and Kings Heath, Birmingham, B14 7RS and the appeal has been considered on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers at 230 Grange Road, with particular regard to privacy.

Reasons

4. The appeal site is currently in use as a builders yard and is located to the rear of 230 Grange Road. The site comprises a narrow area of hardstanding with an existing two storey building located at the rear of the plot and a single storey outbuilding spanning the boundary with the neighbouring residential property. The site is accessed from Grange Road and is located within a residential context, largely characterised by two storey terraced dwellings with semi-detached properties towards the junction of Grange Road and Highbury Road.
5. The proposed development would change the use of the site from a builders yard with proposed extensions and conversion of the existing two storey building to a one bedroom dwelling. The existing single storey outbuilding would be removed

- with external amenity space provided to the front of the proposed dwelling, separated by a wall with the adjoining residential properties.
6. At my site visit it was evident that the first floor of the existing two storey building is in use as an office and affords a direct, clear view towards the rear outrigger of no 230. It is stated by the appellant that there are no restrictions on the existing commercial use of the appeal site with the office being used at weekends and in the evenings. I have been provided with no evidence to dispute this.
 7. The proposed dwelling would include a bedroom at first floor level, served by two roof lights and a wide casement window which would largely replicate the siting of the existing office window. The separation distance between the proposed bedroom window and the rear facing windows of no 230 would not be altered through the proposal.
 8. The Council has stated that the proposed development would introduce a habitable room window separated by less than 21m from the rear elevation windows of no 230, which would result in a loss of privacy through overlooking for the occupiers of the existing dwelling. Birmingham Design Guide (BDG), City Note LW-3, 2022, sets out, among other matters, standard guidance for minimum privacy distances in new development schemes adjacent to an existing residential use. 21m is requested between building faces for 2 storey dwellings and is recommended to be applied more strictly at the rear of buildings.
 9. Both parties have agreed that the first floor rear window located on the outrigger of no 230 serves a bathroom. It is noted that the distance between the proposed bedroom window of the appeal property and the bathroom window at no 230 would be less than 21m. However, there is disagreement among the parties with regard to whether the window is obscurely glazed, with the Council maintaining that it is not and requesting the retention of an appropriate separation distance.
 10. Nevertheless, in their appeal statement, the Council has provided an extract from the BDG, City Note LW-4, 2022, which, among other matters, sets out that habitable rooms do not include bathrooms. As such, the guidance does not afford the same level of protection with regard to privacy and overlooking concerns to the bathroom window of no 230. Furthermore, BDG City Note LW-3, sets out guidance relating to the design of new development in addressing residential privacy and overlooking. The guidance states that the distance requirements should be considered on a case-by-case basis, influenced by the individual site circumstances.
 11. The evidence before me indicates that the current use of the appeal site is unrestricted and that the separation distance will remain as existing between the proposed bedroom window and the rear outrigger bathroom window of no 230, which does not serve a habitable room. I therefore find that there will be no worsening of privacy through overlooking to no 230 than the existing situation.
 12. I therefore conclude that the proposed development would not cause unacceptable harm to the living conditions of neighbouring occupiers at no 230, with particular regard to privacy. It would accord with Policy DM2 of the Development Management in Birmingham, Development Plan Document, (Birmingham Plan 2031), 2021. This policy seeks to ensure that development will not result in unacceptable adverse impacts on the amenities of occupiers and neighbours, with consideration given to visual privacy and overlooking.

Other Matters

13. In their appeal statement, the Council has raised privacy concerns relating to other surrounding occupiers and a ground floor habitable room window at no 238 has been referenced. Whilst no 238 is some distance from the appeal site, a photo has been provided by the Council identifying the property adjoining no 230 where the ground floor doors of the outrigger have been highlighted. A representation has been received from this neighbouring property and whilst it is noted that the doors serve a habitable room, direct views would not easily be obtained from the proposed bedroom window due to the oblique angle of the view. Therefore, there would be no worsening of privacy than the existing arrangement at the site.
14. Representations have been made by several interested parties, including raising concern over loss of light to adjacent properties and gardens. However, the massing of the proposed building and proposed boundary walls would largely replicate the existing situation on site. The proposed two storey extension would be set down significantly from the adjoining rear elevation wall of no 122A Highbury Road and would not have an adverse impact on the living conditions of neighbouring occupiers through loss of privacy, outlook or daylight and sunlight.
15. Interested parties have additionally raised concern regarding parking provision for the proposed dwelling. Given the present use as a builders yard and absence of substantive evidence to show there would be harm arising from the residential development, I do not consider the proposal would be problematic in this respect. The Council do not raise any concerns regarding additional parking demand in the area which reinforces my view. Comments relating to the reinstatement of the footway and landscape details can be adequately addressed by planning conditions.
16. Noise and disturbance during construction have also been raised as a concern, however, the modest scale of the proposal and the temporary nature of the construction works make these matters neutral factors. Additionally, observations relating to the design of the proposed dwelling do not demonstrate that the proposal would be inappropriately designed within its setting and so do not lead me to a different view overall.
17. The appeal has been assessed on its planning merits and the appellants criticism of the Council's handling of the planning application has not formed part of my consideration.

Conditions

18. The Council has provided a list of conditions which I have assessed with regard to the legislative requirements. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
19. A pre-commencement condition requiring a contaminated land risk assessment and remediation scheme is imposed. However, I have adjusted and amalgamated the wording of the Council's suggestions to make it proportionate to the scale and nature of the development. Moreover, I am mindful that paragraph 197 of the National Planning Policy Framework confirms that where a site is affected by contamination, responsibility for securing a safe development rests with the developer and/ or landowner. The condition is required given the site's previous

use as a builders yard and to ensure that the proposed residential use, and ultimately human health, is not affected by contamination.

20. A condition has also been added to require hard and soft landscaping and external lighting to be carried out in accordance with details previously agreed in writing prior to the occupation of the dwelling. The landscaping element is to ensure a high quality development, and the external lighting element is in the interest of safety for future occupiers, as well as to ensure that the living conditions of existing occupiers are not affected by external lighting. It is noted that West Midlands Police have requested additional requirements including security rated locks to the entrance door and fenestration, in addition to a noise assessment, however, these requests do not meet the required legislative tests.
21. Pre-occupation conditions have also been included relating to the provision of one bicycle parking space for future occupiers, in the interests of providing sustainable transport options. Furthermore, a condition has been added relating to the reinstatement of the redundant footway crossing, in the interests of highway safety.

Conclusion

22. The proposal accords with the development plan taken as a whole and there are no other material considerations to suggest that the decision should be made other than in accordance with it. Therefore, for the reasons given above, the appeal is allowed.

K Dryden

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 4953/1a, 4953/3 and 4953/4a.
- 3) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and

- iii) a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- i additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 4). Details of hard and soft landscape works, and external lighting shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the first occupation of the dwelling hereby permitted and thereafter retained. Any trees or shrubs which, within a period of five years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.
 - 5). The dwelling shall not be occupied until secure and covered storage for one bicycle is provided within the curtilage and shall thereafter be retained as such.
 - 6). Prior to the occupation of the dwelling, the redundant footway crossing shown on drawing no 4953/1a shall be removed and a full height kerb shall be reinstated.