Planning Inspectorate

Appeal Decision

Site visit made on 09 December 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/P4605/D/25/3370327
128 Bankes Road, Birmingham B10 9PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval under Article 3(1) and Schedule 2, Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr M Irfan against the decision of Birmingham City Council.
- The application Ref is 2025/02476/PA.
- The development proposed is erection of 6 metre deep single storey rear extension. Maximum height 3.12 metres, eaves height 2.5 metres.

Decision

1. The appeal is dismissed.

Preliminary matters

2. The prior approval application and appeal were made in the name of Mr M Irfan. This is reflected in the banner heading above.

Background and Main Issue

3. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted development) (England) Order 2015, as amended (the GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to the satisfaction of limitations, restrictions and conditions. One such condition requires an assessment to be made as to the effect on the amenity of any adjoining premises, considering any representations received. The Council's concerns relate to the development's effects on the amenity of adjoining premises 130 Bankes Road.

4. The proposed plans also show an extension to the roof. However, the development is described as a single storey rear extension and there is no indication that the roof extension has been submitted for consideration as part of this proposal. I have therefore considered the proposal on the basis of the description of development set out in the banner heading above.

5. The main issue in this appeal is whether the proposal would comply with Schedule 2, Part 1, Class A of the GPDO with reference to its effect on the amenity of the adjoining premises 130 Bankes Road.

Reasons

6. 128 Bankes Road is a terraced property with a 2-storey gable projection to the rear. The proposal is for a single storey rear extension 6 metres in depth which

would fill a gap between the gable and the site boundary shared with 130 Bankes Road. The extension would provide an open-plan living room.

7. Policy DM10 of the Development Management in Birmingham Development Plan Document (2021) (DPD) states that development will need to ensure adequate outlook and daylight to dwellings, in line with the approach of the 45 degree code, and that development should not cross the line from an angle of 45 degrees from the nearest window providing the main source of natural light to a 'habitable room' of dwellings that could be affected. This establishes a clear development plan requirement for the application of the 45 degree code. The Birmingham design guide healthy living and working places city manual (2022) (DG) states that the Council will utilise the 45 degree code to reduce the impact of oblique overshadowing and overlooking from properties or sites located to the side of existing properties.

8. The extension would be sited close to windows in the rear elevation of No 130 and would break the 45 degree line drawn from the nearest ground floor rear window. The affected window serves a kitchen, which the DG lists as a habitable room. There is no compelling evidence before me that the affected window does not serve a habitable room, or that the impact of any reduction in light levels to this room arising from the proposal would be rendered acceptable through light sources from other openings.

9. The extension has an eaves height of 2.5 metres. Whilst this would project approximately 0.7 metres above the boundary fence separating the site and No 130, it would still be noticeable. Given the considerable depth of the extension and its proximity to the window, the proposal would result in a noticeable loss of light to this room, making it a dark and uninviting space in which to spend time. The extension would appear overbearing in views from this window, resulting in restricted outlook and an adverse sense of enclosure, to the detriment of the living conditions of the occupants of this dwelling.

10. The development would have an adverse impact on the amenity of the adjoining premises 130 Bankes Road with regard to light levels and outlook. Insofar as they are a material consideration, this would conflict with those aims of DPD policies DM2 and DM10, which require that development not result in unacceptable adverse impacts on the amenity of neighbours, and with those aims of the DG set out above. Consequently, it would not comply with the conditions in Schedule 2, Part 1, Class A of the GPDO, and is not therefore development permitted by it.

Other Matters

11. The matters which must be considered in a prior approval application are set out in the GPDO. Paragraph A.4 (7) of Part 1, Class A of Schedule 2 of the GPDO establishes that (where any owner or occupier of any adjoining premises objects to the proposed development), prior approval is required as to the impact of the proposed development on the amenity of any adjoining premises. It is stated that the proposal would meet the social, economic and environmental aims of the National Planning Policy Framework, would support local trades people and increase council tax revenues, and would be carried out in a manner sympathetic to the character and appearance of the host dwelling and surrounding area. However, given the scope of matters for consideration, these matters are not

relevant to the main issue and have no bearing on whether the proposal would be permitted development.

12. The appellant submits that the extension is needed to support the medical needs of his father, providing extra space to help with mobility and independence. The Public Sector Equality Duty contained in section 149 of the Equality Act 2010 sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Whilst I acknowledge that the proposal would improve the quality of life of the appellant's father, given the scope for matters for consideration, this falls outside of the prior approval matters. Therefore, it is not a matter which has any bearing on whether the proposal would be permitted development.

13. Reference is made to extensions which have been approved by the Council, which it is stated are similar to or larger than the appeal proposal[1]. It is also stated that the existing extension at No 130 affects light levels to windows at the appeal property. However, given the scope of matters for consideration in an application for prior approval, examples of extensions elsewhere, including those which conflict with the 45 degree code, do not indicate that the proposal, for which I have identified that there would be harm to adjoining amenity, would be permitted development.

Conclusion

14. For the reasons given above, having regard to all other matters raised, the appeal is dismissed.

N Robinson

INSPECTOR

[1] 2021/05176/PA, 2014/03277/PA, N/03636/08/FUL, 2019/09513/PA, 2020/06449/PA, 2019/07581/PA and extensions at 122 Bankes Road and 124 Bankes Road