
Appeal Decision

Site visit made on 4 January 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th January 2017

Appeal Ref: APP/N5090/D/16/3160377
10 Riverside, Hendon, London NW4 3TX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Idris Bhamjee against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/3393/HSE, dated 18 May 2016, was refused by notice dated 28 July 2016.
 - The development proposed is described as a single storey first floor extension to the rear side of the house.
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Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension at 10 Riverside, Hendon, London NW4 3TX, in accordance with the terms of the application Ref:16/3393/HSE, dated 18 May 2016, subject to the attached schedule of conditions.

Procedural Matter

2. The Council changed the description of the development of application ref: 16/3393/HSE to 'first floor rear extension'. This is an accurate description of the development which I have therefore used in my decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupants of Nos 8 and 12 Riverside with particular regard to outlook.

Reasons

4. The appeal property comprises a two storey mid terrace dwelling which has a substantial ground floor flat roof extension that occupies the full width of the rear elevation and extends approximately 6m. The adjoining properties, Nos 8 and 12 Riverside, have not been extended.
 5. The proposed development would involve the construction of a first floor, hipped roof extension approximately 3.5m wide and 2.3m in depth. The proposed extension would be positioned centrally on top of the existing ground floor extension with an eaves height commensurate with that of the host dwelling and a ridge height that would be lower than that of the terrace block.
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6. In comparison to the substantial scale and mass of the existing ground floor extension, the proposed first floor extension is modest in size and in my view would appear as being subservient to the extended property.
7. The extension would be set in from the side boundaries of Nos 8 and 12 by approximately 1.28m and 1.43m respectively. The proposal has been designed such that a 45 degree line drawn from the nearest edge of the bedroom windows in the adjacent properties to the rear façade of the proposed extension is maintained. Consequently, I do not consider that the proposed extension would cause a material loss of light or outlook from the adjoining property's bedroom windows.
8. The Council has referred to a conflict with the guidance contained with the adopted Supplementary Planning Document: Residential Design Guidance (2013) (SPD) and suggest that the proposed extension contravenes paragraph 14.23 of the document by not being set in from the side boundaries of the adjacent properties by a minimum of 2m.
9. However, this paragraph states that 'Two storey rear extensions which are closer than 2 metres to a neighbouring boundary and project more than 3 metres in depth are not normally considered acceptable'. In the case of the appeal proposal the depth of the proposed extension is approximately 2.3m and as such is less than the 3m depth identified in the paragraph. The SPD considers rear two storey extensions as one constructional unit and does not provide any prescriptive guidance for circumstances where a smaller first floor extension is proposed over an existing larger ground floor extension. Taking these factors into account, I do not consider that the proposed extension would be materially in contravention of the guidance provided in this part of the SPD.
10. Owing to the size and position of the existing ground floor extension, the full extent of the proposed first floor extension would not be readily visible from the relatively small rear gardens of the adjoining properties. Given the modest size of the proposed extension, the limited views from the gardens of the adjoining properties and the fact that the 45 degree line outlined above is maintained, I do not consider that the proposed extension would create any additional sense of enclosure, significantly reduce outlook or appear as overbearing beyond that which already occurs to the occupants of the adjoining properties as a consequence of the substantial ground floor extension.
11. Although the proposed extension would be visible from the rear of properties on Sturgess Avenue, in such views, due to its modest size, I do not consider that it would appear as dominant or overbearing. Given the separation distance between the proposed extension and the rear of the properties on Sturgess Avenue the proposal would not cause any demonstrable loss of outlook or privacy for the occupants of those properties.
12. Taking the above factors into consideration, I conclude that the proposed development would not cause demonstrable harm to the living conditions of the occupants of Nos 8 or 12 Riverside. Consequently, there would be no conflict with Policy CS5 of the Barnet Core Strategy (2012) and Policy DM01 of the Barnet Development Management Policies Document (2012). These policies, amongst other things, require that new development should respect local context and be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.

Conditions

13. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have amended some of them for clarity for the reasons set out below.
14. In addition to the standard time limit condition, I consider it necessary to impose a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area, I have also imposed a condition concerning the external materials to be used.
15. I agree that a condition is necessary to ensure that no other windows are formed in the side elevations of the extension in order to protect the privacy of the occupants of Nos 8 and 12 Riverside. However, I have amended the Council's suggested condition to reflect the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015.
16. To similarly protect the privacy of the occupants of adjoining properties, I agree that a condition is necessary to prevent access from the extension being created to form a roof garden. However, I have amended the Council's suggested condition as it appears to me to relate to the hipped roof of the proposed extension and not the prevention of access to the existing flat roof of the ground floor extension on which the proposed first floor extension would be constructed. I consider that the risk of creating a roof garden or other amenity area is more relevant to the roof of the existing extension than that of the development proposed.

Conclusion

17. For the above reasons and taking all other matters raised into account, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 453/01A – Existing Floor Plans; 453/02A – Existing Elevations; 453/03A – Proposed First Floor Plan; 453/04A – Proposed Elevations; Site Location Plan
- 3) The external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or openings of any kind, other than those expressly authorised by this permission, shall be formed in the side elevations of the extension facing No 8 and No 12 Riverside.
- 5) No access shall be formed in the extension hereby permitted to the roof of the ground floor extension for the purposes of its use as a balcony, roof garden or similar amenity area.