

Appeal Decision

Site visit made on 12 April 2017

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 25th April 2017

Appeal Ref: APP/N1920/D/17/3168832

47 Newlands Avenue, Radlett WD7 8EJ

- 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 P Donoghue against the decision of Hertsmere Borough Council.
 - The application Ref 16/1580/HSE, dated 11 August 2016, was refused by notice dated 15 November 2016.
 - The development proposed is the erection of a single-storey rear extension, first floor level side infill extension and new outbuilding to the rear garden.
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Decision

1. The appeal is allowed and planning permission granted for the erection of a single-storey rear extension, first floor level side infill extension and new outbuilding to the rear garden at 47 Newlands Avenue, Radlett WD7 8EJ in accordance with the terms of the application, Ref 16/1580/HSE, dated 11 August 2016, subject to the conditions identified in the attached Schedule to this decision.

Procedural Matter

2. As noted by the appellant, Policy SADM31 of the Hertsmere Local Plan: Site Allocations and Development Policies Plan (SADM) referred to in the reasons for refusal is now Policy SADM30 in the adopted document.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on the character and appearance of the host property and the surrounding area and (b) the living conditions of the occupiers of the neighbouring properties.

Reasons

Character and Appearance

4. The appeal property is a large detached dwelling situated within a spacious and verdant residential area of similarly sized properties sited within extensive curtilages. The surrounding dwellings vary in their design, including properties which have been redeveloped or significantly altered. There are examples of
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- properties which occupy a substantial proportion of the plot width, have accommodation within the roofspace and possess crown roofs and dormers.
5. The proposed development includes alterations to the existing property by the addition of first floor accommodation, changes to the roof to provide accommodation within the roofspace, the erection of a large single storey rear extension and the construction of an outbuilding within the garden. The Council has not objected to the construction of the outbuilding which the appellant claims could be erected as permitted development associated with a dwelling house. Whether the applied for Certificate of Lawful Development to erect an outbuilding has been issued by the Council is unknown.
 6. Although whether such a structure could be erected as permitted development is not a matter for determination as part of this appeal, there are no reasons to disagree with the Council's assessment and the absence of an objection to the erection of the proposed outbuilding. In reaching this judgement careful note has been taken of the comments of the occupiers of the neighbouring properties, including the type of accommodation indicated on the submitted drawing. However, there is no specific evidence to indicate that the proposed outbuilding would be used as anything other than incidental accommodation for the host property.
 7. The appellant claims that another outbuilding could be erected in a position which would be similar to the proposed rear extensions albeit without any link to the host property. Again, whether such a structure could be erected as permitted development is not a matter for determination as part of this appeal. However, by reason of height, siting, change in ground level and the existing vegetation, this element of the appeal scheme would neither be visually prominent from the streetscene nor materially diminish the rear garden's positive contribution to the spacious and verdant character and appearance of the surrounding area. These assessments remain applicable for the cumulative effects of erecting both the proposed outbuilding and rear extension.
 8. When viewed from the road, there would be an increase in the size and bulk of the host property because of the increased height of the proposed crown roof and the first floor extension. However, by reason of the variations in the scale and design of the dwellings within the surrounding area, together with the difference in ground levels between the property and the adjacent dwellings, the design and bulk of the proposed extension and alterations to the roof would result in a property that would still respect and complement the character and appearance of the surrounding residential area. The enlarged property would not be an incongruous feature within the streetscene whether by reason of scale, height, design or roof form. At the rear the proposed rear dormers would be subservient in size to the roof.
 9. By reason of the current size of both the host property and its associated curtilage, the individual elements of the appeal scheme could all be erected without the enlarged property and associated outbuilding resulting in the appearance of either a cramped form of development or an overdevelopment of the plot. The spacious and verdant appearance of the surrounding area, including the streetscene, would be maintained.

10. The alterations to the property would be within the root protection area of an oak tree within the curtilage of 49 Newlands Avenue which is the subject of a Tree Preservation Order (TPO). The details of the TPO have not been provided. However, the Council has not objected to the proposed development by reason of any adverse effect on this tree or other trees within the appeal property's curtilage. Based upon the absence of any excavation works being required within the Root Protection Area of the tree subject of the TPO, the recommendations of the appellant's Arboricultural Report and the potential for appropriate conditions to protect all retained trees during the construction works, I am satisfied that the proposed development would not result in the unacceptable loss of or damage to trees, including the tree subject of the TPO.
11. Accordingly, it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the host property and the surrounding area and, as such, it would not conflict with Policy CS22 of the Hertsmere Local Plan Development Plan Document: Core Strategy (CS) and SADM Policy SADM 30. Amongst other matters these policies require development to be of a high quality of design and recognise and complement the particular local character of an area in which it is located, including respecting the visual amenity of an area by virtue of scale, mass, bulk and height. These policies are consistent with the National Planning Policy Framework's (the Framework) core principle of securing high quality design.

Living Conditions

12. As already noted, whether an outbuilding could be erected as permitted development as a partial substitute for the proposed rear extension is not a matter for determination. Further, whether a Certificate of Lawful Development for such an outbuilding has been issued by the Council has not been advised. However, the principle of erecting an outbuilding adjacent to the shared boundary with No. 45 does represent a potential fall-back position to which significant weight should be given.
13. To the rear of No. 45 is a single storey addition and, from the observations made during the site visit, there is an obscured glazed rear window which has an outlook towards the boundary vegetation. Based upon these observations, it does not appear that this window serves a habitable room. The outlook towards the proposed extension from this ground floor window and the garden of No. 45 would be filtered by the substantial vegetation adjacent to the shared boundary.
14. The proposed rear extension would breach a 45° line drawn from the nearest edge of a habitable room window within the rear elevation of No. 45. This habitable room window is at first floor level and, when taken together with the difference in ground level, appears to be sited above the ridge height of the proposed extension. Accordingly, by reason of the relationship between this window and the proposed extension, there would not be a material reduction in levels of sunlight and daylight reaching the window. Further, the outlook from this window would generally be above the proposed extension with views also filtered by the boundary vegetation.
15. The occupiers of the neighbouring properties have expressed concerns about overlooking and loss of privacy associated with the outlook from the proposed

dormer windows. However, no such objection has been raised by the Council. Based upon the siting and height of the proposed dormers, I am satisfied that any loss of privacy would be limited because the outlook would be predominately towards the rear parts of the neighbouring gardens.

16. The potential for the overshadowing of the neighbouring properties associated with the increase in the height and bulk of the host property has been raised by the occupiers of these properties. However, the proposed increase in the height and bulk of the property is not such that it would materially alter any existing overshadowing, particularly taking into account the separation distance between the enlarged property and No. 49. For similar reasons of separation distance, there would be no material loss of sunlight, daylight and outlook for the occupiers of the properties fronting the opposite side of the road.
17. Although the concern raised by the occupiers of No. 45 have been noted, the submitted drawings do not indicate that there would be any external plant associated with the proposed swimming pool sited adjacent to the shared boundary. Accordingly, there is no specific evidence to indicate that the proposed development would be an unacceptable source of noise or other related disturbance to the occupiers of this neighbouring property.
18. For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of the neighbouring properties and, as such, it would not conflict with CS Policy CS22 and SADM Policy SADM30. These policies require development to have a limited impact on the amenity of neighbours in terms of outlook, privacy, light and nuisance. These policies are consistent with the Framework's core principle of securing a high standard of amenity for all existing and future occupants of land and buildings.

Conditions

19. The Council has suggested a number of conditions in the event that this appeal succeeds and they have been assessed against the tests contained in the Framework and the National Planning Practice Guidance. In the interests of proper planning and for the avoidance of doubt, a condition is necessary requiring the appeal scheme to be erected in accordance with the approved drawings.
20. To ensure that the appeal scheme successfully integrates with the host property, it is necessary for the external materials of the extensions to match those of the existing property. However, there are no details provided about the choice of external materials for the proposed outbuilding and it would be appropriate for these to be approved by the Council to ensure they complement the character and appearance of the surrounding area.
21. For the reasons already given, a condition to protect the tree subject of the TPO is necessary and this protection should extend to the other retained trees as recommended in the appellant's Arboricultural Report. To protect the living conditions of the occupiers of the neighbouring properties from the effects of erecting the proposed development a construction management plan should be implemented.

22. Where appropriate the wording of the suggested conditions has been amended for reasons of precision. Accordingly, and taking into account all other matters, it is concluded that this appeal should be allowed.

D J Barnes

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 the following approved plans: 5418 A100 Rev A; 5418 A101 Rev C; 5418 A102 Rev B; 5418 A103 Rev D; 5418 A104; 5418 A200 Rev A; 5418 A201 Rev C and Ordnance Survey Map.
3. The materials to be used in the construction of the external surfaces of the extensions to the host property hereby permitted shall match those used in the existing building.
4. No development shall commence until details of the materials to be used in the construction of the external surfaces of the outbuilding hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - (i) the parking of vehicles of site operatives and visitors;
 - (ii) delivery, demolition and construction working hours;
 - (iii) loading and unloading of plant and materials;
 - (iv) storage of plant and materials used in constructing the development, and
 - (v) wheel washing facilities.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
6. No site clearance, preparatory work or development shall take place until a scheme for the protection of Tree T4 as identified on Drawing No. 160931-P-10 contained in the Arboricultural Report dated October 2016 and the appropriate working methods in accordance with paragraphs 5.5 and 6.1 of *British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations* (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of this tree shall be carried out as approved and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

7. No site clearance, preparatory work or development shall take place until the fencing for the protection of the retained trees shall have been implemented in accordance with the Drawing No. 160931-P-12 contained in the Arboricultural Report dated October 2016. The fencing shall be erected in accordance with the drawing before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced areas, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.