



Appeal Decision

Site visit made on 5 July 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 21 July 2017

Appeal Ref: APP/Q5300/D/17/3172825 12 Water Lane, Edmonton N9 7DQ

- 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 Mrs Marjan Shohani, Christian Action Housing against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/03478/HOU, dated 28 July 2016, was refused by notice dated 18 January 2017.
 - The development proposed is single rear storey extension and conversion and enclosure of car port at front of property to provide habitable accommodation.
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Decision

1. The appeal is dismissed insofar as it relates to the single rear storey extension. The appeal is allowed insofar as it relates to the conversion and enclosure of the car port and planning permission is granted for the conversion and enclosure of car port at front of property to provide habitable accommodation at 12 Water Lane, Edmonton N9 7DQ in accordance with the terms of the application, Ref 16/03478/HOU, dated 28 July 2016, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 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 insofar as they show the permitted elements of the development only: WL-00, WL-01, WL-02, WL-03, WL-11, WL-12, WL-13.
 - 3) The materials to be used in the construction of the development hereby approved shall match those of the existing dwelling.

Procedural Matter

2. In Part E of the appeal form it is stated that the description of development has not changed, but a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. I have however used the revised wording as I consider this provides a clearer description of the development.

Main Issues

3. The main issues are:
 - (a) The effect of the development on:

- The character and appearance of the area; and
 - The living conditions of the occupants of 11 Water Lane, with particular regard to daylight, sunlight and outlook.
- (b) Whether there are personal circumstances sufficient to outweigh any harm identified.

Reasons

Character and Appearance

4. The appeal site is a two storey end of terrace dwelling. This terrace is of one of four similar blocks on Water Lane. Each dwelling is set back from the roadside behind an open fronted driveway which provides an access to undercroft parking for one car. The proposal is designed to provide a larger kitchen and ground floor bedroom and wc/shower facilities to address the personal circumstances of the existing occupant.
5. This is a relatively modern row of buildings which have not yet been subject to any significant physical or aesthetic change. The area still therefore maintains its original character. The shared design details and regular appearance of the terrace blocks create a pleasant street scene. The enclosure of the car port to the front would inevitably break up the uniform appearance of the terraced blocks to the detriment of the overall character of the group. The impact of this would be exacerbated by the largely unaltered nature of the other dwellings, which would result in the development standing out as an incongruous alteration.
6. The row of dwellings run perpendicular to Henderson Road and are relatively self-enclosed and private. Though not particularly prominent in wider views, the change in appearance would still be seen to some extent from publically accessible vantage points. However, the development would not result in an overly dominant or overbearing form of development, nor would it materially affect the overall scale of the building. The use of matching materials and the appropriate scale and position of the new window would also help to mitigate the impact to an extent.
7. Nevertheless, the development would still result in the erosion of the existing character and appearance of the area contrary to Enfield Core Strategy (CS)(2010) Policy CP30 and Enfield Development Management Document (DMD) (2014) Policy DMD37 which seek, amongst other things, to ensure development has appropriate regard to its surroundings.

Living Conditions

8. The rear extension would project from the rear wall by 4 metres, which is the same distance as the existing conservatory. However, it would extend to the full width of the dwelling, thus bringing the flank wall closer to the common boundary with No 11 and the main habitable room window.
9. DMD Policy DMD11 does not permit rear extensions beyond 3 metres. At 4 meters in depth, this represents a significant increase in distance over and above the policy's limitations. The policy also requires development to not exceed a line taken at 45 degrees from the mid-point of the nearest original ground floor windows to any adjacent property. The appellant has not disputed the Council's assertion that the development would be in breach of this.

10. The extension would therefore conflict with the development plan in this regard and would result in a somewhat imposing structure close to the common boundary. This would encroach into the outlook of the occupants of No 11 to an unacceptable degree, creating an unwelcome sense of enclosure. The position of the extension is also likely to have a material impact on the amount of sunlight and daylight that is able to penetrate the living room of the dwelling at certain parts of the day, leading to a potentially gloomy environment within.
11. I recognise that the conservatory is the same depth and taller than the extension would be. However, it is also further from the habitable room window and is of a lighter construction than the development. The preponderance of glazing in the conservatory would also not be as restrictive in terms of light passing through the structure. I therefore find that the development would have a materially different and more harmful impact on the living conditions of the occupants of No 11 than the conservatory.
12. The appellant has suggested that a larger extension might be allowed under permitted development rights. However, I have not been provided with any evidence of a specific fallback proposal or anything which demonstrates conclusively that the requirements of the relevant parts of the General Permitted Development Order (2015) can be met. As such, I have not given this significant weight in my decision.
13. I find that the development would have an unacceptable impact on the living conditions of the occupants of No 11. Accordingly, there would be conflict with DMD policies DMD11 and DMD37 which seek, amongst other things, to protect the amenities of neighbouring properties.

Personal Circumstances

14. Planning law¹ requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case, it has been put to me that the personal circumstances of the occupant of the dwelling are a significant material consideration, which the Council has not factored into its decision. I am satisfied from the evidence provided that there is a genuine need for the dwelling to be wheelchair accessible and that there appears to have been some issues in finding alternative accommodation. As such, I consider the personal circumstances identified carry significant weight in this case.
15. The kitchen in particular does not currently allow easy wheelchair access as it is very narrow. The extension to the kitchen would therefore have a significant beneficial effect on the living conditions of the occupant. While I consider there would be some harm to the character and appearance of the area resulting from the enclosure of the car port, this would be limited in both scale and extent. Even though the effect on the street scene would be permanent, in this case, I consider the particular requirements of the existing occupant would outweigh the limited harm identified. As such, in terms of the conversion of the car port, I am satisfied there are sufficient material considerations to justify a decision other than in accordance with the development plan.
16. I take a different view with the rear extension. The potential effects on the living conditions of neighbouring occupants would be long term and exist long

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

after the personal circumstances of the current occupants have changed. While I sympathise with the need for a downstairs bedroom and other facilities, I do not consider that this need outweighs the importance of protecting the living conditions of existing residents, as required by local and national planning policy. There is also nothing before which demonstrates the proposed extension would be the only way of achieving the same requirements. As such, in the case of the rear extension, the personal circumstances do not outweigh the conflict with the development plan.

Other Matters

17. The conversion of the car port would have some effect on daylight reaching the front door and one side window of No 11. However, the effect of this on living conditions would be negligible as the window does not serve a habitable room. There would also be no effect on outlook in this regard. An additional front facing window would have no discernible effect on the privacy of the residents of No11, as it would not look directly into their property. Whilst it would allow views into the forecourt, this is not a private space and is already open to views from all dwellings in the area and Henderson Road.
18. I see no reason why an extended kitchen should lead to any particular issues with noise, disturbance or smells. Activities within the extended room would be of a normal domestic nature and there would still be some separation between properties by virtue of the remaining car port. Overall, I do not consider the conversion of the car port would have an unacceptable impact on the living conditions of No 11 or their Human Rights as a result. As such, there would be no conflict with local or national policies in this regard.
19. The conversion would have no bearing on the ability to park in the remaining car port as the size of the space would be unchanged. While the forecourt of No 12 might be used for parking more frequently, this would not impede parking at No 11 or affect their living conditions. However, there are available off-street parking spaces and the highway authority did not raise any concerns in terms of parking provision. I saw nothing to come to a different conclusion.
20. I have noted that the residents of No 11 did not object to the rear extension. Nevertheless, I must consider the long term and permanent nature of the development and so this does not outweigh my concerns over living conditions.

Conditions and Conclusion

21. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings insofar as they are relevant to the conversion of the car port as this provides certainty. In the interests of the character and appearance of the area, I have also imposed a condition requiring the materials of the development to match the host dwelling.
22. The proposal includes distinct elements, and I have found some of them to be acceptable and others not. In these circumstances it is open to me to issue a 'split' decision in which parts of the scheme are allowed and parts dismissed. I will exercise that power in this instance. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

S J Lee INSPECTOR