

Appeal Decision

Site visit made on 18 October 2017

by M Seaton BSc (Hons) Dip TP MRTPI

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

Decision date: 03 November 2017

Appeal Ref: APP/N5090/D/17/3180216

9 Marne Avenue, London, N11 1JU

- 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 Ray O'Neill against the decision of the London Borough of Barnet.
 - The application Ref 17/2064/HSE, dated 27 March 2017, was refused by notice dated 25 May 2017.
 - The development proposed is a single storey rear extension and demolition of existing extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are;
 - the effect of the development on the character and appearance of the area; and,
 - whether the development would make adequate provision for the living conditions of the occupiers of No. 9 Marne Avenue, having regard to the level of private external amenity space.

Reasons

Character and appearance

3. The appeal site is comprised of a two-storey mid-terraced property set on a cul-de-sac and within a predominantly residential area. The property possesses an existing large detached outbuilding set within the rear portion of the private garden. It is indicated that the dwelling benefits from approximately 46-47 m² of existing private rear garden.
 4. Whilst I acknowledge that the Council has not raised any specific objection in respect of the detailed design of the rear extension, the Council has contended that the quantum of residual private garden space would be uncharacteristic in the context of the area. I was able to observe that other neighbouring properties on the same side of Marne Avenue have also been extended to the rear by varying degrees, with some existing larger extensions observed in the locality in concert with existing outbuildings. In this respect, I consider that the consequences of the proposed extension would not be entirely uncharacteristic
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in the area, albeit that I accept the Council's observation that the ratio of the plot covered by built form would be significant.

5. Nevertheless, and also being mindful of the absence of any realistic visibility of the rear of the appeal site from the public realm, I would on balance conclude that the proposed extension would not result in a pattern or form of development which would have a significant adverse effect on the character and appearance of the area. There would not therefore be conflict with Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012, and Policies DM1 and DM2 of Barnet's Local Plan (Development Management Policies) Development Plan Documents 2012. These policies and guidance seek to advocate the highest standards of urban design, whilst requiring development to be compatible with the character of an area and respect local context.

Living conditions

6. Turning to the effect of the proposed extension on the living conditions of the existing occupiers of the dwelling, the Council has referred me to the guidance within the Residential Design SPD, which sets out the standards for outdoor amenity space for a dwelling of between 40-85 m² dependent on the number of habitable rooms. The Residential Design SPD highlights that this level of private amenity space provision is necessary in order to ensure that adequate amenity space is available for day to day use.
7. The effect of the proposed development would be to leave approximately 28 m² of private rear garden space, which would be significantly less than the minimum standard as set out within the Residential Design SPD. Whilst I have carefully considered the appellant's contention that many of the neighbouring gardens are already smaller than the minimum standard, I do not regard this as reasonable justification to support the reduction in available area of a compliant private garden in this instance. In this respect, I would agree with the Council's contention that the residual private rear garden would be of insufficient size to ensure that a full range of day to day uses and external activities would be able to take place for the benefit of existing or future occupiers.
8. I have noted the appellant's reference to the effect of the incorporation of the area of the front garden within the overall calculation of useable private amenity area. Whilst I accept the appellant's calculation that the accumulation of garden space provided for by the front and rear gardens would exceed the minimum 40 m² as required by the Residential Design SPD, I am not persuaded that the proposed incorporation of the front garden within the calculation would reasonably accord with the definition of private amenity space, given its visibility and adjacency from the road and passing pavement. Furthermore, whilst I have had regard to the appellant's reference to the availability of existing public open space within the wider area, I do not consider this to preclude the need to seek a reasonable standard of private amenity space in accordance with the adopted Residential Design SPD.
9. I am therefore satisfied that the proposed development would fail to make provision for adequate external amenity space for existing and future occupiers. The proposals would not therefore accord with Policy CS5 of the Core Strategy, Policy DM1 of the Development Management Policies, and the Residential Design SPD. These policies and guidance require development,

amongst other criteria, to allow for the retention of adequate outdoor amenity space.

Other Matters

10. The appellant has highlighted that a previous notification for prior approval for a similar form of 4.5 metre rear extension had been made to the Council (*LPA Ref. 17/2848/PNH*), to which an objection from a neighbouring occupier was received in the mistaken belief that the proposal would be 6 metres in length. However, I note that the application was withdrawn in advance of determination and that no conclusions were reached on issues related to whether the proposal was permitted development under this procedure. The consequence of this is that this previous application has had no bearing on my decision-making in this instance.
11. I have also noted that with reference to the *Town and Country Planning (General Permitted Development) (England) Order 2015*, that the appellant has contested a fallback position exists whereby a 3 metre deep single-storey extension could be constructed without the need for planning permission (or be subject to the prior notification procedure), leaving a residual rear garden area of 33 m². However, establishing whether or not this is the case is not a matter before me in the context of this appeal. In addition, even if this contention was correct then this would represent an increased residual level of private garden space, which in the context of my conclusion above in respect of the effect on living conditions, would clearly be preferable.
12. I note that an interested party has raised concern over the impact on the living conditions of a neighbouring property having regard to the effect on light. I note that this is not a matter of dispute as raised by the Council. On the basis of my observations, I would agree with the Council that the presence of existing extensions and outshots to the rear of neighbouring properties would sufficiently mitigate the impact of the proposed extension, such that the living conditions of neighbouring occupiers having regard to light would not be adversely affected.

Conclusion

13. I have not found, on balance, that the proposed extension would result in an adverse effect on the character and appearance of the area. However, I have concluded that the consequent reduction in the useable private garden space would fail to safeguard the living conditions of existing and future occupiers in this respect. I find this harm to be significant.
14. For the reasons given above, the appeal should be dismissed.

M Seaton

INSPECTOR