



Appeal Decision

Site visit made on 29 October 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2019

Appeal Ref: APP/Q5300/W/19/3234990

41 Kingwell Road, Enfield North, Enfield EN4 0HZ

- 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 Sanjay Patel against the decision of the Council of the London Borough of Enfield.
 - The application Ref 19/02145/FUL, dated 12 June 2019, was refused by notice dated 7 August 2019.
 - The development proposed is the demolition of the existing house and the erection of a five-bedroom three storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing house and the erection of a five-bedroomed three storey dwelling at 41 Kingwell Road, Enfield North, Enfield EN4 0HZ, in accordance with the application Ref 19/02145/FUL, dated 12 June 2019, subject to the following 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: A101, A106, A107, A108, A109, A110 and A115 Rev. A.
 - 3) No development shall commence above slab level until an Energy Statement, including details of energy and water efficiency and carbon dioxide reductions, has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 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 enlargement of the dwellinghouse or additions or other alterations to its roof, as permitted by Classes A, B and C of Part 1 of Schedule 2 of that order, shall take place.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupants at Nos 39 and 43 Kingwell Road, with particular regard to outlook and access to daylight.

Reasons

3. No 41 is a large, detached, two storey dwelling located in a residential area. In common with neighbouring properties, it is set back from the carriageway within a generous plot. The proposal seeks permission to replace the existing property with another detached dwellinghouse.
4. Policy DMD11 of the Improving Enfield Development Management Document (DMD) deals with extensions rather than replacement dwellings. It states that single storey extensions should not exceed a line taken at a 45 degree angle from the mid-point of the nearest original ground floor window at adjacent properties. It also states that first floor extensions should not exceed a line taken at a 30 degree angle from the nearest original first floor window at adjacent properties. The justification and guidance on the implementation of this policy confirms that this is in the interest of preserving acceptable living conditions at neighbouring properties.
5. The proposed dwelling would breach both a 45 degree sight line taken from the nearest ground floor rear window at No 39 and a 30 degree sight line taken from the nearest first floor rear window at this neighbouring property. However, on the evidence before me, the maximum breach in this regard would be limited (approximately 350 millimetres at ground floor level). In addition, in my view the proposal would be sufficiently set away from No 39 and its single storey rear element would be constructed under a flat roof which would reduce the perceived bulk and mass of this feature. Thus, I am not persuaded that the overall scale and positioning of the proposal would be unduly dominant or oppressive when viewed from within No 39 or its rear garden.
6. I note that concerns have been raised with regard to the proposal's impact upon an adjacent first floor side facing bedroom window towards the front of No 39. However, this appears to be a secondary light source and the bedroom it serves benefits from a large front facing window. On this basis, and with regard to the orientation and overall depth of the proposal, I find that it would not significantly diminish the access to daylight within No 39 or unacceptably overshadow its large rear garden.
7. Turning to No 43, a 45 degree sight line would not be breached from the nearest ground floor rear window at this property. I note that a 30 degree sight line would be contravened from the nearest first floor rear window. However, this breach would only be marginal and the proposal would be approximately 6 metres away from this window. Consequently, I find that it would not be unduly oppressive when viewed from within No 43. Furthermore, there is an existing garage at No 43 which extends beyond the rear of this property along the shared boundary with No 41. Taking this, as well as the above into account, I find that the proposal's depth and positioning would not significantly diminish the access to daylight at this neighbouring dwelling. Neither would it appear unduly dominant from its primary external amenity space.
8. With regard to all of the above, although the proposal would result in technical conflict with the criteria of Policy DMD11 of the DMD if I were to use it in my assessment, I find that such conflict would not result in any material planning harm.

9. For the reasons given, I conclude the proposal would not adversely affect the living conditions of the occupants of Nos 39 and 43 in terms of outlook and access to daylight. It would therefore accord with Policies DMD8 and DMD11 of the DMD insofar as they seek to preserve living conditions at surrounding properties in terms of outlook and access to daylight. I have also been referred to Policy DMD37 of the DMD and Policy CP30 of The Enfield Plan Core Strategy. However, these mainly deal with character and appearance and are therefore not relevant to this main issue.

Other Consideration

10. The Council raise no objection to the impact of the proposal on the character and appearance of the area. Having visited the site, I see no reason to come to a different conclusion on this matter.

Conditions

11. I have considered the conditions put forward by the Council. Having regard to the tests set out in paragraph 55 of the National Planning Policy Framework, I have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit, a condition specifying the plans is required in the interests of certainty. I have also imposed a condition requiring the submission of an Energy Statement, including details of energy and water efficiency and carbon dioxide reductions. This is necessary in the interest of emissions targets and sustainable construction.
12. Furthermore, I have imposed a condition removing permitted development rights for the enlargement, improvement or other alteration of the dwellinghouse and for additions and other alterations to its roof. This is necessary in the interest of both the character and appearance of the area and the living conditions at neighbouring properties. Notwithstanding this, given the generous size of the rear garden at No 41, I am not persuaded that it is reasonable or necessary to remove permitted development rights for outbuildings.
13. The Council has requested conditions requiring details of; means of enclosure, hard surfacing, cycle parking, refuse storage and planting. However, such details are provided on submitted plans and I have no evidence to show that they would not be acceptable. Consequently, it is not necessary to impose these conditions.

Conclusion

14. For the reasons set out above, the appeal scheme would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, the appeal should be allowed.

M Heron

INSPECTOR