



Appeal Decisions

Site visit made on 10 September 2019

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal A Ref: APP/Q5300/D/19/3233199

6 Shakespeare Avenue, London N11 1AY

- 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 Ms Husha Nujurally against the decision of the Council of the London Borough of Enfield.
 - The application Ref 19/01108/HOU, dated 22 March 2019, was refused by notice dated 15 May 2019.
 - The development proposed is a single storey rear extension.
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Appeal B Ref: APP/Q5300/D/19/3234083

6 Shakespeare Avenue, London N11 1AY

- 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 Ms Husha Nujurally against the decision of the Council of the London Borough of Enfield.
 - The application Ref 19/02088/PRH, dated 12 June 2019, was refused by notice dated 16 July 2019.
 - The development proposed is a single storey rear extension.
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Decisions

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matter

2. As set out above there are two appeals on this site. They differ only in respect of the depth of the extensions. Appeal A relates to an extension with a depth of 4.6m and Appeal B relates to an extension with a depth of 4m. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

3. The main issue in both appeals is the effect of the extension upon the living conditions of the occupiers of No 4 and No 8 Shakespeare Avenue in terms of daylight and outlook.
4. With regard to Appeal A, there is an additional main issue of the effect of the extension upon the character of the surrounding area.

Reasons

Living conditions

5. The appeal property is a two-storey mid terrace dwelling in a suburban location. The appeal property and No 4 have not been extended to the rear. There is an existing single storey rear extension at No 8. The boundary treatment between the properties comprises timber fencing approximately 2m in height.
6. Policy DMD 11 of the Council's Development Management Document (DMD) 2014 sets out the criteria against which proposals for single storey rear extensions are to be assessed against. Part 2a of the policy sets out that extensions must not exceed 3m in depth beyond the rear wall of terraced properties and should not exceed 3m to eaves, with an allowance of up to 0.5m to the top of the parapet wall. Part 2b sets out that extensions must not extend beyond a 45-degree line taken from the mid-point of the nearest original ground floor window to any adjacent properties. Finally, Part 2c sets out that there should be a common alignment of rear extensions.
7. Notwithstanding the height of the existing boundary treatment and the lack of objection the proposed rear extension in the case of both Appeal A and Appeal B would extend beyond a depth of 3m and would breach the 45-degree line taken from the nearest ground floor window at No 4 which has not been extended to the rear. The development would conflict with Parts 2a and 2b of Policy DMD 11.
8. Whilst the height of the proposed extension would accord with the policy, it would have a significant adverse impact on the living conditions of the occupiers of this property by virtue of loss of daylight and outlook due to its position along the boundary with No 4 and its depth forming an overbearing feature and creating a sense of enclosure, not just to the nearest window but to both openings in the rear elevation serving the open plan kitchen/ diner. Taking into account the height of the proposed extension and the path of the sun I acknowledge that it would have a limited impact upon sunlight to the rear of No 4. However, this weighs neither for nor against the proposal and does not outweigh the harm I have identified in relation to the impact upon daylight and outlook.
9. The proposed development would therefore conflict with DMD Policies DMD11 and DMD 37 which seek to ensure that rear extensions do not impact on the living conditions of neighbouring occupiers and should have appropriate regard to its surroundings and Policy CP30 of the Enfield Local Plan (2010) (ELP) which seeks to ensure that all new development is high quality and design led and has special regard to its context. The development would also be contrary to National Planning Policy Framework paragraph 127(f) (Framework) which sets out that decisions should ensure that development should create places with a high standard of amenity for existing and future users.
10. In respect of No 8 light and outlook from the original ground floor windows are already limited by an existing extension which is predominantly solid along the boundary with the appeal site. Whilst the development would extend beyond the extension at No 8 it would not result in an unacceptable impact on the living conditions of the occupiers of this property in respect of daylight due to the form of the existing extension.

Character and appearance

11. In respect of Appeal A the proposed extension would project further than the rear extension at No 8 by approximately 1.5m. One of the criteria of DMD Policy DMD 11 (2c) requires a common alignment of rear extensions. The Council consider that the 'leap frogging' of extensions would be detrimental to the character of the area. Whilst the proposed extension would project beyond the extension at No 8 there are rear extensions with varying depths including at No 2 in the surrounding area. This arrangement and variety of depths would not be uncharacteristic and detrimental to the character of the area and would retain sufficient rear amenity space. As such I find that in this regard the development would not be contrary to DMD Policy DMD11 and Policy CP30 of the ELP.

Other Matters

12. I note the appellant's comments in relation to other approved extensions in the surrounding area. However, I have not been made aware of the individual circumstances that led to them being considered acceptable by the Council. In any case, every appeal must be considered on its own merits. The presence of other larger extensions in the area adds no weight in favour of the appeal proposal.
13. The appellant has referred to their permitted development rights and the potential for a deeper extension. Taking into account the conditions that apply to such extensions set out in Class A of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 and that the appellant has already pursued this option under Prior Approval application ref: 19/02088/PRH (Appeal B) which the Council have refused it is unlikely that a scheme for a larger extension would come forward.
14. The appellant has suggested that the kitchen extension would allow the family to remain in the property and would be built to a high standard resulting in a greater quality of life for occupiers of the property, freeing up bedroom space and increased property value. Whilst these are personal benefits of the proposal, they are insufficient to outweigh the harm I have identified in relation to the first main issue.
15. I note the appellant has commented that the development plan policies are out of date as they pre-date the Framework. However, paragraph 213 of the Framework sets out that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. In the context of the development plan I have found DMD 11 Policy DMD 11 and Policy CP30 of the ELP to be broadly consistent with the aims of the Framework and as such they are not considered to be out-of-date for purposes of this appeal.
16. The appeal scheme before me is a resubmission of preceding applications refused by the Council. I appreciate that the appellant has attempted to overcome the concerns previously raised but the amendments would still result in a proposal that would harm the character and appearance of the area for the reasons I have already outlined and could not be overcome through the imposition of conditions. The way the Council has apparently acted during the

course of the applications is outside the remit of a Section 78 appeal and as such is a matter of negligible weight.

Conclusion

17. I have not found that either appeal scheme would harm the area's character and appearance. However, for the reasons set out on the first main issues both Appeal A and Appeal B are dismissed.

B Thandi

INSPECTOR