



Appeal Decisions

Site visit made on 1 June 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th June 2020

Appeal A: Ref: APP/Q5300/D/19/3241303

6 Shakespeare Avenue, New Southgate, London, N11 1AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Ms Husha Nujurally against the decision of the Council of the London Borough of Enfield.
 - The application Ref: 19/02571/PRH received by the Council on 22 July 2019, was refused by notice dated 27 August 2019.
 - The development proposed is described as single storey rear extension 6m depth – height 3.20m and 3m on the eaves.
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Appeal B: Ref: APP/Q5300/D/19/3241903

6 Shakespeare Avenue, New Southgate, London, N11 1AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Ms Husha Nujurally against the decision of the Council of the London Borough of Enfield.
 - The application Ref: 19/02693/PRH received by the Council on 29 July 2019, was refused by notice dated 9 September 2019.
 - The development proposed is described as this relates to a single rear extension 5m deep X 3.2 height (on the eaves 3 metres).
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Decisions

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

Procedural Matters

2. As set out above there are two appeals on the appeal site premises. They differ only in respect of the depth of the extensions. Appeal A relates to an extension with a depth of approximately 6m and Appeal B relates to an extension with a depth of approximately 5m. 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.
3. The description of the development in the original application form for Appeal B is blank. Therefore, I have used the description from the appellant's appeal form in the banner heading above.
4. There is no date or declaration on the application forms for either Appeal A or Appeal B. Therefore, I have taken the respective dates of the applications from the Council's decision notices.

5. The appellant has made reference to two other appeal proposals being considered at the appeal site. APP/Q5300/D/19/3234083 and 3233199 are for developments of 4m and 4.6m respectively. However, these do not have a bearing on the appeal proposals before me, which I have considered on their own merits.
6. The Council's decision notice for the respective appeal proposals states that prior approval of the Council is required, and planning permission is refused. Paragraph A.4(7) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) requires that where an adjoining occupier objects to the proposed development, the prior approval of the local planning authority is required as to its impact on the amenity of any adjoining premises. Representations have been received to the proposal from neighbouring properties. Paragraph A.4(9) requires that the amenity of all adjoining premises is considered by the local planning authority. My determination of this appeal has been made on the same basis.
7. The reason for refusal in the Council's respective decision notices for appeals A and B have referred to Policy CP30 of the Enfield Council Core Strategy (November 2010) (the Core Strategy) and Policies DMD 11 and DMD 37 of the Council's Development Management Document (November 2014) (the DMD). I have been provided with these policies. I have had regard to them only in so far as they set out material which assists in assessing the impact of extensions on the amenity of adjacent properties.
8. The appellant's appeal statements suggest that they would be willing to reduce the height of the appeal schemes to 3m. The plans submitted with these appeals indicate extensions of 3.2m in height and there are no amended plans before me. I have considered each of the appeal schemes on the basis of the submitted plans.

Main Issue

9. The main issue is the effect of the proposals on the living conditions of the occupiers of Nos. 4 and 8 Shakespeare Avenue.

Reasons

10. The appeal site is a mid-terrace dwelling in a row of four on Shakespeare Avenue. Nos. 4, 6 and 8 are set within reasonably deep plots. However, the respective garden areas are reduced to approximately 12 – 14m deep by garage buildings at the rear. Nos. 4 and 6 appear unmodified to the rear. No 8 has a conservatory and a small extension across its rear elevation.
11. Both extensions would occupy a significant depth and proportion of the appeal site garden. Even with a reduced roof height, a considerable proportion of the extensions would be above the existing fence. The plans before me show the extensions would be almost the entire width of the plot and therefore be sited on or very close to the boundaries. Given the height, depth and proximity to the boundary, either extension would appear significantly overbearing and oppressive when viewed from the rear ground floor windows and garden area of No. 4. Therefore, they would have a significant adverse effect upon the living conditions of the occupiers of No. 4 with reference to outlook.
12. The outlook from the original ground floor windows of No. 8 are limited by a conservatory. However, the proposals would extend beyond the rear elevation

- of the conservatory by approximately 2 – 3m. The depth, height and proximity of either proposed extension would result in harmful living conditions to the occupiers of No. 8 with particular reference to outlook when viewed from the rear windows of the dwelling.
13. The rear elevation of No. 4 is part enclosed by a what appears a shallower rear extension to the south west at No. 2. The depth, height and proximity of the proposals to the north west boundary of No. 4 would significantly add to the degree of enclosure. Notwithstanding the size of window openings at No. 4, the cumulative effect of either proposed development with No. 2, would be to significantly restrict daylight to the rear window openings of No. 4. For this reason, either scheme would result level of daylight loss that have a significant adverse effect upon the living conditions of the occupiers of No. 4.
 14. The proposals would not discernibly affect the sun path to No. 4. They would only result in a small degree of overshadowing in the lighter months for a limited period of time in the evening. As a consequence, I do not consider either development would be harmful in respect of overshadowing to No. 4.
 15. The rear elevation of No. 8 has a relatively open aspect to the north west, which the proposals would not impede. However, the height, depth and south western orientation of the proposals would result in either extension overshadowing some of the rear elevation and garden of No. 8 in the late morning and early afternoon. The extent of overshadowing would be significant at certain times of the day and year, particularly in some of the darker months when the sun is lower. Therefore, the proposals would be likely to result some limited harm to the living conditions of the occupiers of No. 8 with particular reference to overshadowing and daylight.
 16. The extensions proposed in both Appeal A and Appeal B would adversely impact and result in significant harm to the living conditions of the occupiers of No. 4 with particular regard loss of outlook and daylight, and No. 8 in respect of outlook. There would also be some limited harm to No. 8 through overshadowing and loss of daylight. Therefore, the proposals are not considered acceptable having regard to the provisions of paragraphs A.4 (7) and A.4 (9) of Part 1 Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
 17. Given the harm to living conditions, the schemes conflict with Policy DMD 11 of the DMD. As Policy CP30 of the Core Strategy relates to the Council's intentions for future policies and Policy DMD 37 of the DMD relates to high quality design, these are of less relevance. The appellant believes these policies are out of date including due the modern lifestyles requiring a different layout to some dwellings. Policy DMD 11 appears broadly consistent the objectives of the National Planning Policy Framework (2019) (the Framework) in respect of the living conditions of occupiers. There might be some inconsistency with the GPDO in respect of the depth of extensions and the 45-degree rule. However, the GPDO specifically requires that the amenity of adjoining premises is considered. It is against this specific requirement of the GPDO that these appeals have been considered.

Other Matters

18. The existing kitchen is of a limited size. The development would allow greater space within the overall dwelling, improved facilities, an improved quality of life

and property value for the occupiers, and allow the dwelling to fulfil their needs for a longer period. However, this does not mitigate the harm to the living conditions of the occupiers of Nos 4 and 8, as assessed under the GPDO. Even if neighbouring occupiers found the developments acceptable, the properties are part of a housing stock that should be maintained to be fit for future occupation, including by maintaining adequate living conditions.

19. I note the other rear extensions on Shakespeare Avenue referred to by the appellant. However, I am not aware of the full details and circumstances that led to the approval of each of the proposals. Based upon the information before me, the approval of the other developments, does not persuade me that either of the appeal schemes should be allowed under the GPDO.
20. Even if (as suggested by the appellant) the development is acceptable in respect of character and appearance, privacy, subservience and plot ratio, it does not mitigate the harm outlined in relation to the requirements of the GPDO. I understand the appellant has attempted to overcome concerns raised previously in other refused applications. However, the schemes before me would still result in harmful living conditions to the occupiers of neighbouring properties. Although the appellant suggests the Council has not behaved in an acceptable manner towards proposals at the site, this is outside the remit of a Section 78 appeal.

Conclusion

21. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A and Appeal B should be dismissed.

Dan Szymanski

INSPECTOR