



Appeal Decision

Site visit made on 21 January 2020 by Alex O'Doherty LLB(Hons) MSc

Decision by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th June 2020

Appeal Ref: APP/N1920/W/19/3238544

14 North Avenue, Shenley WD7 9DG

- 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 Vigan Bakija against the decision of Hertsmere Borough Council.
 - The application Ref 19/1097/HSE, dated 11 July 2019, was refused by notice dated 12 September 2019.
 - The development proposed is erection of first floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of part single, part two storey rear extension at 14 North Avenue, Shenley WD7 9DG in accordance with the application, Ref 19/1097/HSE, dated 11 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 00-002 (Rev A).
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The first floor extension hereby permitted shall not be occupied until the proposed first floor bathroom window in the east elevation shown on drawing ref: 00-002 (Rev A) has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Thereafter the window shall be permanently retained as such.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. The description of development given in the Council's decision notice is: "Construction of part single, part two storey rear extension". This is the description used to determine the application. As

that description more accurately describes the proposal, the appeal has also been determined using that description of development.

4. The appellant's Grounds of Appeal included a new 'outlook analysis', and a Daylight and Sunlight Study. As this constituted new material evidence, the appeal procedure was changed from the Householder Appeals Service to the Part 2 written representations procedure. This provided the opportunity for further information to be submitted by the parties (including any interested persons). This information has been taken into account in the determination of this appeal.
5. At my site visit I saw that the single storey extension had been constructed. The appeal proposal is therefore partly retrospective and I have assessed it on that basis.
6. It is clear from the Council's decision that it has no objection to the single storey element of the proposed rear extension. It is also clear from the Council's decision and its appeal statement that it has no objection to the proposal in relation to daylight and sunlight. I have no evidence before me to reach a contrary view to the Council in this regard and therefore my decision focuses on the effect of the two storey element of the rear extension, with particular reference to outlook.

Main Issue

7. The effect of the proposed extension on the living conditions of the occupiers of No 12 North Avenue ('No 12'), with particular reference to outlook.

Reasons for the Recommendation

8. The appeal site comprises a two storey semi-detached dwelling with a rear garden. The two storey element of the proposal would have a depth of approximately 4 metres, and would have the potential to affect the outlook from the rear windows at No 12, particularly the nearest first floor rear-facing window which serves a bedroom. However, that window is a dormer window, which is inset in the roof of No 12. Consequently, outlook is already reduced from that window to some degree, due to the roof form positioned around it.
9. The Council has cited a breach of the advice given in the Planning and Design Guide Part E: Guidelines for Residential Extensions and Alterations (adopted November 2006) (Supplementary Planning Document) ('Design Guide SPD'), which advises that the first floor of a rear extension should be set comfortably within a line drawn at 45 degrees from the nearest edge of any first floor neighbouring window (except bathroom or landing windows). However, due to the orientation and placement of the properties, and that the two storey element would be set-back from the edge of the ground floor extension by approximately 2 metres, the proposal's projection forward of No 12 would not be substantial. Additionally, whilst No 12 is angled towards the common boundary, a large separation distance would remain.
10. The appellant's 'outlook analysis' indicates that the outlook directly towards the appeal property, from the first floor bedroom window of No 12, would only be minimally reduced. Due to the combination of the separation distance between the two properties and the restricted length of the proposed second storey extension, the proposal would not cause significant harm to the outlook from the ground floor and first floor rear windows of No 12. I note that the Design

Guide SPD states that each case must be judged on its merits, having regard to the circumstances of the site. In this case, any breach of the 45 degree guideline would not result in a material loss of outlook from the first floor rear window of No 12.

11. Therefore, I conclude that the proposal would not cause material harm to the living conditions of the occupiers of No 12, with particular reference to outlook. The proposal complies with Policy CS22 of the Core Strategy Development Plan Document (adopted January 2013) which, in line with the Design Guide SPD, requires all development to be of a high quality design, which ensures the creation of usable places. The proposal also complies with Policy SADM30 of the Site Allocations and Development Management Policies Plan (adopted November 2016) which provides that in order to achieve a high quality design, a development must have a limited impact on the amenity of neighbouring occupiers in terms of outlook.
12. The proposal complies with the requirement in paragraph 127 f) of the National Planning Policy Framework ('the Framework') that planning decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users. Whilst the appeal proposal would not fully accord with the advice in the Design Guide SPD, each case must be considered on its merits and based on the circumstances of this site and the appeal proposal before me, I conclude that the proposal would not cause material harm to the living conditions of the occupiers of No 12.

Conditions

13. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal is allowed. I have considered the conditions against the advice on conditions set out in the Framework and the Planning Practice Guidance.
14. A condition is necessary requiring that the development is undertaken in accordance with the approved plans to provide certainty. A condition is necessary controlling external materials to secure an acceptable appearance for the development. A condition is also necessary to ensure that the proposed first floor bathroom window remains non-opening below a height of 1.7 metres, and is obscurely-glazed, to safeguard the living conditions of the occupiers of No 12.

Conclusion and Recommendation

15. Based on the above, and having regard to all matters raised, I recommend that the appeal should be allowed.

Alex O'Doherty

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Sarah Housden

INSPECTOR