



Appeal Decision

Site visit made on 22 June 2020

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

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2020

Appeal Ref: APP/N1920/D/20/3246575

176 Mutton Lane, Potters Bar, EN6 2AW

- 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 Lion Rabinowitz of the Biala Synagogue Trust against the decision of Hertsmere Borough Council.
 - The application Ref: 18/0930/HSE dated 9 May 2018, was refused by notice dated 5 February 2020.
 - The development proposed is erection of two-storey side extension with alterations to the roof form and a single storey rear extension.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of two storey side extension with alterations to the roof form and a single storey rear extension at 176 Mutton Lane, Potters Bar, EN6 2AW in accordance with the terms of application Ref: 18/0930/HSE dated 9 May 2018, 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 approved plans/drawings numbered: Location Plan (scale 1:1250); ML.176.PR.02; ML.176.PR.01.
 - 3) 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.

Application for costs

2. An application for costs was made by Mr Lion Rabinowitz of the Biala Synagogue Trust against Hertsmere Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of the development from the original planning application form is set out in the banner heading above. This differs from the description in the Council's decision notice which describes the development as first floor side extension and part single part two-storey rear extension. The appellant states this description was not agreed with them, and the appellant sought to amend

the description to include reference to the demolition of an existing side extension. I have sought the views of the parties in respect of the description. Taking these into account, I am content that the description of the development from the original planning application form adequately describes the development. The application form confirms that the development has not commenced, and I am considering the appeal on this basis.

4. An Enforcement Notice (EN) was issued by the Council on 11 November 2016 alleging a front, side and rear extension had been erected without the benefit of planning permission. In considering appeal Ref: APP/N1920/C/16/3164803 against the EN the Inspector allowed the appeal in so far as the requirements were varied to retain some development and amend the timescale for compliance, but also upheld the notice. The EN as modified remains extant as do its requirements to remove front and rear elements of that development. I have been provided with a copy of the Inspector's decision letter and I have had regard to its contents in considering this appeal.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and wider area.

Reasons

6. When viewed from Mutton Lane the appeal site forms the right-hand side of a pair of semi-detached two-storey hipped roof dwellings. In the vicinity of the appeal site the dwellings are generally semi-detached but of varying character and appearance. Due to side extensions on the south side of Mutton Lane nearby many lack symmetry but retain their shallow hipped roofs.
7. The development appears to have a ground floor front and part side wall along the same alignment with the development required to be removed by the EN. In appeal Ref: APP/N1920/C/16/3164803 that Inspector highlighted the incongruence of the flat roof side extension. The decision noted some stepped back extensions provided articulation and contributed subservience. It also highlights the scale and hipped roof forms of other extensions nearby, including two storey hipped roof extensions flush to the front wall at Nos. 170 and 172, and a similar scheme approved on appeal (APP/N1920/C/16/3152440) at the adjoining No. 174.
8. The proposed development would be over half the width of the original main dwelling but would not be discernibly wider than the single storey development that could be retained under the EN. It would conflict with aspects of Part E (2006) of the Council's Planning and Design Guide Supplementary Planning Document (the Part E SPD) due to the width, and not being 1m from the side boundary. However, there is an enclosed side return at neighbouring No. 178 approximately 1m wide before its single storey garage. This gap at first floor level would ensure the development does not result in a harmful terracing effect. Furthermore, Nos. 176 and 174 are set back further from the highway than the semis either side. Therefore, the development would not result in an unacceptable terracing effect or be dominant or harmful to the character and appearance of host dwelling, street scene and wider area.
9. The proposal doesn't include a set back from the front wall, or a set down from the roof. The former requirement would appear to conflict with some advice in

the Part E SPD and Draft Part D of the Council's Planning and Design Guide Supplementary Planning Document (2016) (the Part D SPD). However, the continuation of the original eaves, ridge and front wall results in a development in keeping with the character, appearance and forms of the original dwelling. I attach significant weight to this. This form of development would also be in keeping with Nos. 170 and 172 and similar to the approved scheme at No. 174. The existing rear extensions would be replaced by a modest single storey rear extension across the width of the dwelling. For the reasons set out above the development would not be harmful to and would be in keeping with the character and appearance of the host dwelling and the area.

10. The Council's reason for refusal cites some harm due to the unauthorised nature of the existing extensions. However, that development is a separate development that is the subject to the requirements of the EN and its compliance steps. Based upon the evidence before me, it does not result in the development subject of this appeal being unacceptable for the reasons set out.
11. The proposed development would not conflict with Policies SP1, SP2 and CS22 of the Hertsmere Core Strategy (2013). Amongst other things these require that a development is of a high-quality design that respects and enhances the character, appearance and quality of the host dwelling and the wider area. It would be compliant with Policy SADM30 of the Hertsmere Site Allocations and Development Management Policies Plan (2016). This amongst other things, requires development respects, enhances or improves the visual amenity and character of an area by virtue of its scale, mass, bulk, height and form.
12. The development may conflict with some aspects of the advice in the Part D SPD and Part E SPD in terms of width, distance to the boundary, and being set back from the existing dwelling. However, having regard to the Policies of the development plan, the development would not be harmful as a result of any conflict. The Council has referred to the National Planning Policy Framework (2019) (the Framework) in its reason for refusal. However, in the absence of a direct reference, and in-light of my conclusions above, I find no conflict with the policies relating to character and appearance.

Other Matters

13. The concerns of third parties that the foundations would not be sufficient to support a two-storey extension, are matters dealt with under the Building Regulations. I note the concerns in respect of the proximity to the boundary line and maintenance issues. However, there is no evidence before me that suggests there would be a need for frequent maintenance, or matters could not be dealt with under private legal rights. Given the proximity, oblique angles and that there would be no side facing windows, the privacy of nearby properties would be maintained and protected sufficiently. It would not result in a harmful loss of sunlight to the nearest gardens as it lies to their north, east or north west, it is no higher than and viewed in the context of the existing roof. It would result in a similar amount of private amenity space from compliance with the EN, but the resulting shape would appear more useable.
14. The potential impact upon house sales is a private interest, and therefore is not a material consideration or matter I can pursue in determining this appeal. I note the concerns about an existing 5-bedroom House of Multiple Occupation. However, I have had regard to the development proposal before me on its own merits and impacts. There is no substantive evidence before me that this

proposed three-bedroom development would result in anti-social behaviour. Some disturbance from construction is possible. However, the development is modestly sized so the nature and duration of the works would be limited and do not appear of a magnitude that would result in harmful living conditions to neighbouring occupiers.

15. The appeal site is located within Residential Accessibility Zone 2 where parking requirements can be between 25% - 100% of the maximum. At my visit there was an off-road space that appeared of a width and depth sufficient for a car. Adjacent to this a number of motorcycles and cycles were parked. The appeal site is accessed off a section of Mutton Lane with good visibility, approximately 250m from Darkes Lane which has a variety of shops and services, and approximately 550m from the train station. There is no substantive evidence to suggest during construction or upon completion the development would cause an unacceptable risk to highway safety. The Council has not raised an objection or suggested the imposition of conditions in these regards, and I see no reason to disagree.

Conditions

16. It is necessary to specify conditions for the time limit for commencement and compliance with the approved plans to ensure certainty and for the avoidance of doubt. To ensure the satisfactory appearance of the development a condition is necessary to ensure the external materials used in the construction of the development match the existing building.

Conclusion

17. For the reasons set out above, and having regard to all the matters raised, I conclude that the appeal should be allowed, and planning permission is granted.

Dan Szymanski

INSPECTOR