
Appeal Decision

Site visit made on 15 July 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/N5090/D/19/3243110

5 Lyonsdown Avenue, New Barnet, Barnet EN5 1DU

- 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 Miriam Hayes against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0849/HSE, dated 21 January 2019, was refused by notice dated 6 November 2019.
 - The development proposed is described as a single storey side extension and part single, part two storey rear extensions. Extension to roof including hip to gable, 3no rooflights to front roofslope, 1no rear dormer and 1no rooflights to rear roofslope. New access steps to garden level with railings and extension to existing raised patio. Part demolition of existing garage.
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Decision

1. The appeal is allowed and planning permission is granted for development described as a single storey side extension and part single, part two storey rear extensions. Extension to roof including hip to gable, 3no rooflights to front roofslope, 1no rear dormer and 1no rooflights to rear roofslope. New access steps to garden level with railings and extension to existing raised patio. Part demolition of existing garage at 5 Lyonsdown Avenue, New Barnet, Barnet EN5 1DU in accordance with the terms of the application, Ref 19/0849/HSE, dated 21 January 2019, subject to the following condition:
 - 1) The development hereby permitted is as it is shown on approved plan reference 5LA-PP-02

Procedural Matters

2. I have taken the description of development from the appeal form. This reflects the Council's decision notice and best describes the development to which the appeal relates. The description on the application form is not sufficiently precise. I have proceeded on this basis.
3. At my site visit I was able to ascertain that the development as it is described above and as it is shown on the approved plan referred to in condition 1 has been carried out. I have therefore considered the appeal scheme on the basis of seeking retrospective planning permission.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area and the living conditions of the occupiers of No 7 Lyonsdown Avenue.

Reasons

Character and Appearance

5. The appeal site is one half of a pair of semidetached two storey dwellings set back from and facing the road. It has been substantially altered. There is a single storey extension across the width of the rear elevation which has enlarged the kitchen and dining spaces. This sits above an enlarged raised patio area with steps into the rear garden. A first floor extension projects over part of the new ground floor and contains a new bedroom. A narrow single storey extension projects to the side. There is also a flat roofed dormer window in the rear roof slope, a number of rooflights and the hipped roof on the main body of the house has been changed to a gable.
6. I am in agreement that the extensions, cumulatively, have altered the building substantially. They have added bulk and mass to the building and features such as the large dormer window and the hip to gable alteration specifically have noticeably, and unacceptably in my view, unbalanced the pair of adjoined buildings. That said, there is an important context in which to consider these effects. I shall take each element in turn but there may be some overlap.
7. Starting with the dormer and hip to gable extension, which in my opinion are the most harmful in visual terms, it appears the Council are content they would not, cumulatively, exceed the volumetric allowances set out by Schedule 2, Part 1, Class B of the GPDO¹. I have no reason to dispute this finding. Despite the harm the additions cause to the design of the dwelling as a scheme seeking express planning permission, there is evidently a fallback position worthy of substantial weight.
8. Planning permission was granted for a number of extensions to the building under the Council's reference 17/6566/HSE. These included single storey and first floor additions to the rear over an enlarged elevated patio space and a single storey extension to the side. Under Council reference 17/8199/PNH, a notification under the prior approval process was agreed for a 4.5 metre single storey extension adjacent the shared boundary with the adjoined dwelling at No 7. This was on the understanding that a small gap was left between it and the side wall of the existing kitchen as it was at the time so it would be purely a rear extension and thus comply with the allowances connected with the prior approval process.
9. Development has been carried out at the appeal site largely as was approved. The differences being a gable end instead of a hip to the first floor rear projection, the dormer and hip to gable I have addressed above and the effective linking of the prior approval rear extension and the one allowed as part of the aforementioned planning permission. Whilst arguably diminimus, the single storey extension as built is also slightly narrower than as it was approved by the planning permission.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

10. Again, the cumulative effect of the extensions has been significant in altering the appearance of the dwelling, particularly at the rear. I agree that the prior approval extension can now no longer be erected given what has taken place. Nor can the one approved under the planning permission. Both could not have been erected in accordance with their approved details as their respective side walls would have overlapped. That said, I do not feel that the design, use of materials and subservient scale of the single storey rear element of the extensions as built is particularly harmful considering what has been approved up to this point. Further, these extensions are to the rear of the building and thus well screened from public views.
11. I am also mindful that, hypothetically speaking, if the prior approval scheme or the approved single storey rear element had been built narrower so they did not join it would have accordingly taken up less space and as a result it would have been (arguably) less harmful. It would have been obviously up to the Council whether they felt such a change enforcement worthy but if such a situation arose it strikes me that it would unlikely be in the public interest to do so. All told, I feel that linking the two extensions has not resulted in any greater harm over and above that which they could potentially have cumulatively caused. Taking into account also my findings on the merits of the single storey extension as it has been erected.
12. I do find that elements of the appeal scheme cause some harm to the character and appearance of the area for the reasons I have explained. This accordingly leads to conflict with Policies CS1 and CS5 of the Core Strategy², DM01 of the Local Plan³ and 7.4 and 7.6 of the London Plan 2016. Together with the guidance set out in the Council's Residential Design Guidance SPD⁴, these policies explain, amongst other things and in regard to this main issue, that the Council will seek the highest standards and qualities of design, development should respect local context and distinctive local character, be based on an understanding of local characteristics and have regard to the form, function and structure of an area, making a positive contribution to a coherent public realm.
13. There are however other considerations material to this case, which I have set out in detail above, that lead me to finding in the appellant's favour with regard to this main issue.

Living Conditions

14. The Council set out that the extensions to the dwelling are detrimental to the visual amenities of surrounding occupiers and cite specifically those of No 7, the adjoining dwelling. I feel I have however assessed the effect of the development on the character and appearance of the area sufficiently above and drawn reasoned conclusions.
15. That said, the Council also express substantive concerns over the effect the ground floor element as it falls closest to the shared boundary of No 7 has. Whilst not being explicit about precisely where the overbearing and loss of light impact is felt by the occupiers of No 7, they do mention that No 7 does not have a rear projecting extension at the point of the shared boundary. I

² Barnet's Local Plan Core Strategy Development Plan Document 2012

³ Barnet's Local Plan Development Management Policies Development Plan Document 2012

⁴ Local Plan Supplementary Planning Document: Residential Design Guidance 2016

therefore take this to mean that the Council's concerns lay with the overbearing and loss of light effect the single storey element as it projects close to the shared boundary has on the use of the area of garden immediately adjacent and the ground floor windows that face onto it.

16. I note that the extension at this point is 4.5 metres from the rear of the main body of the original of the two dwellings. The Council's Residential Design Guidance SPD recommends a total of 3.5 metres. Firstly, I am mindful this is a recommendation and evidently not a hard and fast rule. It is also set down in guidance and not adopted policy. Looking at the extension on its own merits, I do not feel that an additional metre over and above the recommended total has been sufficiently harmful in this particular case to adversely affect the enjoyment of the spaces I have referred to above. The extension is noticeable but then so would a shorter one be. Its single storey nature and hipped roof ensure it is not unacceptably overbearing. There has been a slight reduction in light into the room served by the windows I have mentioned given the height and projection of the extension in close proximity to the boundary but again, given the otherwise wide garden and open aspect afforded to the rear of No 7 I do not feel that such a reduction has led to an unacceptably adverse impact.
17. Whilst a lack of objections from adjoining occupiers are not necessarily a reason on their own to conclude an extension would not have an adverse effect on their living conditions, it is also telling in the context of the other matters that I have raised in regard to this main issue that the occupiers of No 7 did not object to either the notification for prior approval or the planning application for the other works. It is also sufficiently clear from the Council's evidence in regard to this main issue that their concerns lay solely with the single storey rear element as built and advanced as part of the appeal scheme. I have not therefore considered the other works in regard to this main issue.
18. For the above reasons, the development does not harm the living conditions of the occupiers of No 7. As such it complies with Policy CS5 of the Core Strategy and DM01 of the Local Plan. Amongst other things, these policies seek to ensure that attractive environments for people to live in are provided and proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.

Conditions

19. The appeal scheme seeks retrospective planning permission and therefore a time for commencement condition is not required. Further, I do not object to the materials that have been used which, whilst contrasting, are suitable for the existing dwelling which has a mix of brick and render. I have imposed a single condition which, for the purposes of clarity and enforceability, sets out the plan to which the planning permission I have granted relates.

Conclusion

20. For the reasons and subject to the condition I have set out above, the appeal is allowed, and planning permission hereby granted.

John Morrison

INSPECTOR