
Appeal Decision

Site visit made on 23 June 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State.

Decision date: Friday, 04 September 2020

Appeal Ref: APP/R5510/D/20/3244850

13 Cherry Tree Avenue, Yiewsley, West Drayton, UB7 8DB

- 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 Chelsea Findlater against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 74377/APP/2019/3055, dated 16 September 2019, was refused by notice dated 3 January 2020.
 - The development proposed is part two storey, part single storey rear extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the neighbouring residential occupiers at No 11 and No 15 Cherry Tree Avenue, with particular regard to the loss of daylight/sunlight to their garden by reason of over shadowing and the dominance of the proposed extension.

Preliminary Matter

3. The appellant has suggested some of the works might be permitted development. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under section 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.

Reasons

4. No 13 Cherry Tree Avenue is a mid-terrace two-bedroom house. It appears that none of the other houses in the terrace have two storey rear extensions. The rears of the houses face north. In view of this the rear garden, especially the area nearest the house, tend to only receive direct sunlight either in the morning or evening. For the rest of the day the houses themselves block this part of the garden from receiving direct sunlight.
5. The proposed first floor extension would reduce the amount of direct sunlight the area of the garden closest to both Nos 11 and Nos 15 would receive. No 11 would lose some of the direct sunlight it receives in the morning and no 15 would lose some of the direct sunlight its receives in the evening. This tends to

be the area of the garden that is most used by the occupants. No 11 would also have a two-storey extension around 1m from its boundary which would be visually dominant in this position when viewed from its garden.

6. The development plan includes the London Borough of Hillingdon Local Plan Part 1: Strategic Policies (adopted November 2012) (LPP1), the London Borough of Hillingdon: Development Management Policies, with modifications March 2009 (LPP2) and the saved policies from the London Borough of Hillingdon Unitary Development Plan (September 1998) (UDP). Policies BE19 and BE20 of the UDP and Policy DMHB 11 of LPP2 seek, amongst other things, to protect 'residential amenity', including loss of sunlight and avoiding the creation of an over dominant relationship between residential buildings.
7. I note that the appellant has referred to the 45-degree rule taken from the Hillingdon Design and Accessibility Statement Supplementary Planning Document (SPD), Residential Extensions (December 2008). Whilst the proposed extension complies with this rule, the SPD also states that two storey rear or first floor extensions will only be allowed where there is no significant over dominance, over shadowing, loss of outlook and daylight. I have assessed the appeal proposal against these factors as well as its compliance with the 45-degree rule. In this instance I find there would be an unacceptable impact on the living conditions of both No 11 and No 15 by loss of sunlight and daylight to the areas of their gardens closest to the house. With regard to No 11 the two-storey part of the extension would dominate this part of the garden.
8. I find the proposal in conflict with Policy BE19 and BE21 of the UDP and Policy DMHB 11 of the LPP2 and the advice and guidance contained in the SPD as it would unacceptably affect the living conditions of the occupiers of Nos 11 and 15 Cherry Tree Avenue for the reasons given above.

Conclusion

9. I find that the proposal is in conflict with the policies of the development plan and in the absence of other matters that weigh in its favour, I have to dismiss the appeal.

Peter Mark Sturgess

INSPECTOR