



Appeal Decision

Site visit made on 10 November 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2020

Appeal Ref: APP/Q5300/D/20/3252554

11 Seaforth Gardens, Southgate, London N21 3BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Denver Forbes against the decision of the Council of the London Borough of Enfield.
- The application Ref 20/00641/VAR, dated 21 February 2020, was refused by notice dated 23 April 2020.
- The application sought planning permission for: creation of a lower ground floor, two storey front extension with bay windows, part single, part two storey side extension involving conversion of garage, single storey rear extension, two rear dormers and side rooflight, raised terrace at rear and front entrance porch, without complying with a condition attached to planning permission Ref 18/00644/FUL, dated 12 April 2018.
- The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the approved plans: Design and Access Statement;1620-01-DRG-120 P00;1620-01-DRG-210 P02;1620-01-DRG-211 P03;1620-01-DRG-212 P02;1620-01-DRG-113 P03;1620-01-DRG-000 P00;1620-01-DRG--202 P00;1620-01-DRG-201 P00;1620-01-DRG-200 P00;1620-01-DRG-203 P00;1620-01-DRG-101 P00;1620-01-DRG-100 P00;1620-01-DRG-102 P00;1620-01-DRG-205 P00;1620-01-DRG-114 P00;1620-01-DRG-213 P01;1620-01-DRG-110 P01;1620-01-DRG-215 P01;1620-01-DRG-111 P02 and 1620-01-DRG-112 P03.
- The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.

Decision

1. The appeal is allowed, and planning permission is granted to allow alterations to the single storey rear extension at 11 Seaforth Gardens, Southgate, London N21 3BT in accordance with application Ref 20/00641/VAR without compliance with condition no. 2 previously imposed on planning permission Ref 18/00644/FUL, dated 12 April 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. For clarity and precision, I have inserted 'London' into the address in the banner heading above as it is listed on the appeal form. I have also taken the description of development from the Council's decision notice, omitting unnecessary text to accurately and succinctly describe the development in my Decision.
3. Despite the Officer Report confirming 'No representations received', interested parties¹ have provided copies of representations made to the Council during the

¹ Occupiers of No 9 and 15 Seaforth Gardens and the Winchmore Hill Residents Association.

assessment of the planning application. The Council has been given the opportunity to comment on this matter, but no response has been received. In the absence of any evidence to the contrary, I will take the comments of the interested parties into account in the determination of this appeal. Additionally, the appellant has had the opportunity to respond to the comments from these interested parties. Thus, I will not prejudice any party in having regard to the comments provided by interested parties.

4. At the time of my site visit, I had the benefit of seeing the development in place. I have dealt with the appeal on this basis.

Main Issues

5. There is no dispute between the main parties that the proposal constitutes a Minor Material Amendment (MMA). Based on the evidence before me, I find no reason to conclude otherwise. Therefore, the main issues of this appeal are the effect of the development on:
 - i. the character and appearance of the appeal site and surrounding area; and,
 - ii. the living conditions of neighbouring occupiers, particularly those at No's 9 and 15 Seaforth Gardens.

Reasons

Character and appearance

6. The host dwelling is a large detached house, located on a road that comprises of a variety of dwellings, differing in design, all situated in generous plots, with long rear gardens and positioned in an orderly arrangement fronting the road. Due to the location of the host dwelling and its neighbours, the rear garden that incorporates the site is not clearly visible from the street. Thus, the development has little effect on the visual amenities within the public realm.
7. The Council have raised concerns surrounding the projection of the single storey rear extension and its proportionality with the main house. Given the size of the host dwelling and its plot, I do not consider that the development amounts to a disproportionate feature. Additionally, I observed the rearward projection of the neighbouring properties, in particular No 9, which extends further into its rear garden than the appeal scheme. Whilst the development is not fully compliant with the dimensions listed in Policy DMD 11 of the Council's Development Management Document 2014 (DMD), the scheme is a well-designed, subordinate extension that would not result in any significant harmful effects. Despite the technical breaches of the Policy DMD 11, the site-specific circumstances of the host dwelling means that the scheme still accords with its overall design aims.
8. For all of these reasons, I therefore conclude that the development does not harm the character and appearance of the appeal site or surrounding area. This accords with the design, character and appearance aims of Policies 7.4 and 7.6 of the London Plan 2016 (LonP); Policy CP30 of the Council's Core Strategy 2010 (CS) and DMD Policies DMD 8, DMD 11 and DMD 37. The development also complies with the requirements of the National Planning Policy Framework (the Framework).

Living conditions

9. Concerns have been raised regarding the effect of the development on living conditions of neighbouring occupiers. DMD Policy DMD 8 requires all residential development to ensure that neighbouring amenity remains intact in terms of sunlight, daylight, outlook, privacy, overlooking, noise and disturbance. However, I find that there is no harm to the occupiers of No 9, due to the location of the development from the shared boundary and the height and density of the mature hedgerow on this boundary.
10. I accept that due to the siting of the development, it is in proximity of the shared boundary with No 15 and that the effect of the development on the occupiers of No 15 is potentially a factor. However, whilst noting the increased land level at the site compared to those present at No 15, and the rear building line of No 15, compared to the host dwelling and the development, I do not find that the development causes any significant harm. This is due to the distance maintained between the development and No 15, and the oblique angle to which the development is sited. I also noted that the shared boundary between the site and No 15 has a significant amount of mature vegetation present that provides additional mitigation.
11. For all of these reasons, I therefore conclude that the development does not harm the living conditions of neighbouring occupiers, particularly those present at No 9 and No 15. This accords with the amenity aims of LonP Policy 7.6; DMD Policy DMD 8, DMD 11 and DMD 37. The development also complies with the requirements of the Framework.

Other Matters

12. I have had regard to the concerns of neighbouring occupiers, regarding the compliance of the development with the approved application. However, this is not a matter for my consideration in this appeal, and any such issues are a separate matter between the relevant parties and not within my jurisdiction. I have considered this appeal scheme on its own particular merits and concluded that it does not cause harm for the reasons set out above.

Conditions

13. The Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have also reviewed the conditions imposed on the original permission, taking account of the revisions suggested by the Council in its Questionnaire.
14. I have therefore imposed all the conditions suggested by the Council that I consider relevant. In light of advice contained in Planning Practice Guidance, for clarity, and to ensure compliance with the Guidance, I have amended some of the Council's wording on the original conditions that I have included on this decision.
15. The variation of this condition under section 73 of the Town and Country Planning Act 1990 would result in a new planning permission being created. A time limit of commencement of 3 years is not required in this instance. A condition is required to ensure that the development is carried out in accordance with approved plans for certainty. I have not had confirmation from either party about the status of the other drawings imposed on the original

planning permission. Therefore, I have re-imposed all those that I consider remain relevant and have amended and added those provided as part of this appeal. In the event that some are no longer necessary or relevant, this is a matter which could be addressed by the main parties.

16. A condition is still reasonable and necessary for the external materials for character and appearance and conditions relating to obscure glazing and the removal of permitted development rights are both reasonable and necessary to maintain the living conditions of neighbouring occupiers.

Conclusion

17. Taking all matters into consideration, I conclude that the appeal should succeed. I have granted a new permission with the disputed condition varied to allow the scheme to be undertaken in accordance with the design changes proposed in the MMA.

W Johnson

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the approved plans: Design and Access Statement; 1620-01-DRG-120 P00; 1620-01-DRG-210 P02; 1620-01-DRG-211 P03; 1620-01-DRG-212 P02; 1620-01-DRG-113 P03; 1620-01-DRG-000 P00; 1620-01-DRG--202 P00; 1620-01-DRG-201 P00; 1620-01-DRG-200 P00; 1620-01-DRG-203 P00; 1620-01-DRG-101 P00; 1620-01-DRG-100 P00; 1620-01-DRG-102 P00; 1620-01-DRG-205 P00; 1620-01-DRG-114 P00; 1620-01-DRG-213 P01; 1620-01-DRG-110 P03; 1620-01-DRG-215 P01; 1620-01-DRG-111 I03 and 1620-01-DRG-112 P03; 1620-01-DRG-223 I01 and 1620-01-227 I00.

2) The external finishing materials shall match those used in the construction of the existing building and/or areas of hard surfacing.

3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, no external windows or openings other than those indicated on the approved drawings shall be installed in the development hereby approved.

4) The first-floor level glazing within the flank elevations of the building shall be in obscured glass with an equivalent obscuration as level 3 on the Pilkington Obscuration Range and fixed to a height of 1.7 metres above the floor level of the room to which they relate. The obscure glazing shall be maintained and retained for the life of the development.

End of Schedule