

Appeal Decision

Site visit made on 16 October 2020

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2020

Appeal Ref: APP/N5090/D/20/3253642
339 Mays Lane, Underhill, Barnet EN5 2QF

- 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 Adam Plewa against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/0709/S73, dated 9 February 2020, was refused by notice dated 7 April 2020.
 - The application sought planning permission for a first floor rear extension without complying with a condition attached to planning permission Ref 18/6533/HSE, dated 3 January 2019.
 - The condition in dispute is No 1 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans:*
Site Location Plan (numbered 104-101 Revision B)
104-101 Revision A
104-102 Revision A
104-103 Revision C
104-104 Revision C
104-106 Revision B.
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).*
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Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension in accordance with the terms of the application 20/0709/S73, dated 9 February 2020, 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 following approved plans: 104-103C and 104-502.
 - 3) The materials to be used in the construction of the external surfaces of the walls of the extension hereby permitted shall match those used in the existing building.

- 4) Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows or doors, other than those expressly authorised by this permission, shall be placed at any time in the first floor side elevations of the extension hereby approved.
- 5) The flat roofs at the rear of the house shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as balconies, roof gardens or similar amenity or sitting out areas.

Main issues

2. The main issue is the effect of the proposed variation to the approved plans on the character and appearance of the building and the local area.

Reasons

3. No 339 is a mid-terrace 2 storey house set within a residential area of mainly terraced houses with varied architecture. The existing planning permission is for a small first floor extension that would be set in the middle of an existing, much larger large flat roofed rear extension. The amendment proposed here would not change the floor plan of this extension, but would raise the eaves slightly above the existing eaves, with a flat roof instead of a pitched roof.
4. The Council's concern is that the flat roof design and the increased eaves height would not relate well to the existing building, harming the character and appearance of the property, the terrace and the wider area. The Council's Supplementary Planning Document *Residential Design Guidance* (SPD) states that flat roofs on two storey rear extensions are not normally acceptable because they do not relate sympathetically to the house.
5. A similar scale of first floor extension, with a pitched roof, has been built at the next door property and the previously approved extension would sit well next to that structure. The design of the appeal extension would also complement the house and the terrace, however, by introducing a modest, unintrusive element of more contemporary design in an area characterised by varied architectural styles. Although the backs of these houses are visible from the residential street to the rear, the proposed extension would not be a prominent or notable feature in the street scene. Because of the flat roofed design, the overall height of the proposed extension would be less than in the approved scheme, helping to minimise its visual impact.
6. Notwithstanding the SPD's general guidance against first floor flat roof extensions, this particular small scale extension would relate well to the property and the terrace. I conclude that the proposal would not harm the character or the appearance of the building or the local area. It therefore accords with the shared aims of London Plan Policies 7.4 and 7.6, Barnet's Local Plan Core Strategy Development Plan Document Policies CS1 and CS5, Barnet's Local Plan Development Management Policies Development Plan Document Policy DM01 and the SPD, to secure high quality design based on an understanding of local characteristics and respecting local distinctiveness.
7. Although expressed as a variation to a condition of the original permission, this decision establishes a new, separate permission so it is necessary to include a

full list of conditions based on those in the existing permission. A condition specifying the approved plans is amended to allow the new scheme. A condition requiring matching materials is needed to protect the character and appearance of the area. The last 2 conditions restrict the inclusion of side windows and the use of the flat roofs at the back of the house as a roof terrace or similar. Both of these limitations are reasonably necessary to protect neighbours' privacy due to the very close relationship between the terraced houses. I have amended the materials and flat roof usage conditions to clarify their effect. I am satisfied that the minor changes to conditions are not prejudicial to any party.

8. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR